



An Uncivil Approach to Civil Society
Continuing State Curbs on Independent NGOs
and Activists in Russia

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I. Summary

The Russian government's deliberate weakening of key institutions of a pluralistic democratic society, which marked the presidency of Vladimir Putin, has largely continued under President Dmitry Medvedev. A key aspect of this process has been increasing excessive government scrutiny and control of nongovernmental organizations, mainly through the 2006 law regulating NGOs. The government also uses a variety of other measures such as arbitrary tax, labor, and fire inspections, and anti-extremism legislation to harass civil society organizations. The groups targeted are usually those that work on controversial issues, may be capable of galvanizing public dissent, or receive funding from abroad. This report, which updates our February 2008 publication "Choking on Bureaucracy"¹ and is based on research in 10 of Russia's regions, documents the continuing corrosive impact the 2006 NGO law and other government measures are having on civil society and independent activism in Russia.

The election of President Medvedev, reputed to be a cautious reformer, occasioned some optimism for reform. Those hopes have yet to be realised. In April 2009 Medvedev called for reform of the NGO law, and later convened a working group to draft amendments to the 2006 law. Much needs to be done to ensure that the effort will result in meaningful change. Medvedev's May 2008 decree mandating the transfer of NGO registration and oversight authority to the Ministry of Justice has resulted in little, if any, change in the level of unwarranted intervention in the work of NGOs. Meanwhile, restrictions on freedom of expression continue, as do hostile rhetoric toward independent civil society. During Medvedev's first year in office, violence swelled against activists and other public personalities.

Changes in the tax regime have adversely affected NGO funding—foreign financial grants to Russian NGOs now incur substantial tax liabilities since rules were changed in June 2008. This was unsurprising, after the Kremlin made clear that the restrictions introduced in the 2006 NGO law were aimed at controlling and monitoring foreign funding of NGOs. In combination, these recently enacted laws and policies have created financial hardships for many organizations.

¹ Human Rights Watch, *Russia – Choking on Bureaucracy: State Curbs on Independent Civil Society Activism*, vol. 20, no. 1(D), February 2008, <http://www.hrw.org/en/reports/2008/02/19/choking-bureaucracy-o>.

Meanwhile, through the NGO law state officials exercise excessive authority to interfere in the founding and operation of NGOs. For example, in some cases the Ministry of Justice rejects registration applications or notifications of organizational and operational changes on minor technical, non-substantive grounds, such as typos or errors in document formatting.

The NGO law and Ministry of Justice regulations impose onerous reporting requirements on NGOs, especially relating to any foreign sources of funding. They give the Ministry of Justice unlimited discretion to request documents for inspection and to interpret them, including for compliance with the constitution, laws, and “interests” of Russia in the broadest terms. In one notable case in October 2008, however, such a demand was restricted by a court in St. Petersburg.

Ministry of Justice officials can conduct intrusive inspections of NGOs every three years, and can also conduct “unplanned” inspections at any time, and on such grounds as an unsubstantiated complaint by a citizen. Reports indicate that the Ministry of Justice sometimes demands to review all aspects of an NGO’s work during an inspection, including areas that are beyond Ministry of Justice jurisdiction.

In three cases documented in this report, in 2007 and 2008 the Ministry of Justice successfully sought dissolution of groups in Vladimir, Tyumen, and Ulan-Ude on minor, alleged administrative violations. Its efforts to dissolve another Vladimir group, and groups in Samara and Chita, were stopped by the courts.

It is important that courts are holding the line and provide an avenue of redress to NGOs. But court proceedings are time-consuming and challenging, and not all groups have the financial and human resources that allow them to endure lengthy court proceedings. While in some cases the courts may find in favor of an NGO in an appeal against arbitrary or groundlessly punitive actions taken by the Ministry of Justice, it should not fall to the courts to be the sole authority to correct such arbitrariness. Neither should arbitrariness be so highly prevalent.

In some cases the Ministry of Justice appears quick to resort to negative, punitive measures against NGOs—be this by rejecting registration documents, issuing warnings, or seeking dissolution. Indeed, the law provides for little response from the Ministry of Justice other than punitive measures. Rather than punishing NGOs, the Ministry of Justice should seek to support NGOs in understanding and complying with their legal obligations and assist them in preventing and correcting any administrative violations.

The 2006 NGO Law and its accompanying regulations are inconsistent with the Council of Europe standards on the creation, management, and operation of NGOs. When evaluating the conformity of Russia's laws regulating NGO registration with Council of Europe standards and European practice, the Council of Europe's Expert Council on NGO Law criticized various aspects of Russia's NGO regulatory regime, concluding that it "needs to be seriously simplified and built on straightforward bases." Previous Council of Europe analyses have concluded that the NGO law provides "excessive powers of supervision."

The NGO law is only one among many tools employed by the Kremlin that create a worsening climate for NGO work and effectively paralyze the work of some organizations. Harassing tax inspections, inspections for building code or labor code compliance, inspections for pirated software, and police raids, have targeted organizations that are working on particularly controversial topics or that receive foreign funding.

NGOs are vulnerable, too, to being targeted under the Law on Countering Extremist Activity (the anti-extremism law) and associated anti-extremism criminal statutes. This report documents how the broad and vague provisions of the legislation enable the arbitrary targeting of groups that work on human rights, or that express or mobilize dissent. It also demonstrates how article 282 of the related criminal statutes forbids incitement of hatred against "social groups," a nebulous term which has been construed in a way to silence criticism of the authorities.

* * *

In April 2009 President Medvedev signaled that it was time to reverse the hostile rhetoric, to relax restrictions on civil society instituted during Putin's presidency, and to amend laws regulating NGOs. During a meeting with members of the presidential Council for Civil Society Institutions and Human Rights, Medvedev acknowledged unwarranted restrictions on nongovernmental organizations, and pledged his willingness to review the law. In an interview on the same day with *Novaya Gazeta*, an independent newspaper, Medvedev articulated a commitment to democracy and political rights and freedoms, stating that they cannot be traded for prosperity.

His positive statements were followed in May 2009 by the creation of a working group that was tasked with reforming the regulation of noncommercial organizations (NCOs), a term that in Russia encompasses part of the NGO sector. Even so, President Medvedev's statements to date have fallen short of committing to specific reforms. Moreover, any resultant reform would, if adopted, affect only one-third of NGOs (the other two-thirds would

be unaffected because they are registered under different legal forms). But despite these shortcomings, Medvedev's overtures are symbolically significant and provide an important window of opportunity for change.

Human Rights Watch calls on the Russian government to end and desist from further arbitrary limitations on the work of independent civil society groups, and instead empower NGOs to restore and enhance the prominent role they have played in Russian public life. The Russian authorities should simplify the registration procedure and severely pare back the grounds on which NGOs can be denied registration. They should also ensure that penalties handed down are proportionate to any administrative violation, and that dissolution of an NGO is sought based only on the principles laid out in the European Convention on Human Rights.

The Russian government should also publicly and consistently condemn attacks on civil society activists.

Russia's international partners should welcome President Medvedev's acknowledgment of the challenges faced by NGOs, including the negative attitude of government officials, and strongly encourage the Russian authorities to make full use of this critical opportunity to push forward real changes to the operating environment for NGOs. Foreign governments and international institutions should express to Russian interlocutors that several of the existing law's provisions and their implementation clearly violate international human rights standards, as they appear intended to prevent the effective exercise of basic civil and political rights such as freedom of expression and association. Partner governments and multilateral organizations such as the European Union and the Council of Europe should urge the Russian government to commit to a transparent process for considering changes to the law, ensuring adequate opportunities for input by civil society groups. The European Union should make it clear that reform of NGO regulations is a priority issue for the European Union and that it will monitor closely the actions taken in this regard.

Methodology

This report is a follow-up to Human Rights Watch's February 2008 report "Choking on Bureaucracy," in which we documented the effects of Russia's 2006 NGO law on civil society organizations. Cases documented in this report reflect events that took place largely after the publication of that report, although several cases in the present report reflect events that predate "Choking on Bureaucracy" but continued beyond its publication. Three cases included here are wholly from the time period covered by "Choking on Bureaucracy" but

came to light in the course of researching this present report in regions not covered by its predecessor, and are illustrative of ongoing phenomena.

This report is based on in-depth interviews conducted in nine Russian cities—Cheboksary, Chita, Kazan, Khabarovsk, Novosibirsk, Samara, St. Petersburg, Tomsk, and Vladimir—between May and October 2008. From the civil society sector, interviews were conducted with those with responsibility for responding to accusations of noncompliance with the NGO law, such as NGO directors and managers, activists, and lawyers. Interviewees were identified through referral from local groups that monitor the implementation of the NGO law, and through the media. The cities where we conducted interviews were selected for their geographic diversity and the presence of a critical mass of active civil society organizations. Interviews with representatives of several Moscow-based organizations were also conducted in Moscow. Some additional interviews were conducted over the telephone when travel was not possible. Follow-up interviews were conducted by phone and by email.

Our findings and recommendations in “Choking on Bureaucracy” did not elicit any formal response from the Russian Ministry of Justice. We put to the ministry by letter in May 2009 a series of questions relating to the findings in this present report, and have not received a response at this writing. Attempts to call the ministry to request a meeting and discuss our questions were unsuccessful; in several cases, phone calls to published phone numbers for the Ministry of Justice’s the NGO Department were picked up but went unanswered. Numerous calls made over a two-week period to the reception of the director of the NGO Department also went unanswered. In the regions, we sought contact with two branch offices of the Ministry of Justice that local NGO interlocutors identified to us as models of good practice in supporting NGOs. Two officials from the branch office for the Chuvash Republic accepted to be interviewed by Human Rights Watch, but our requests to meet with the branch office for Khabarovsk territory were declined, and a written reply to questions we submitted in writing was nonresponsive to the substantive issues we raised.

All interviews were done by a Human Rights Watch researcher who is fluent in Russian; interviews in Kazan and Samara were also conducted in conjunction with a Human Rights Watch researcher who is a native speaker of Russian.

Human Rights Watch also examined official documents from the Ministry of Justice, court rulings, Russian officials’ public statements, analytical reports published by Russian groups, and media accounts.

In Russia most NGOs are registered as noncommercial organizations (NCOs) or public associations, and are regulated by the Law on Noncommercial Organizations or the Law on Public Associations, respectively. Because the rules and procedures for both types of organizations are largely the same, this report refers to them collectively as NGOs, except when discussing differences in the organizational forms or when otherwise necessary.

II. Recommendations

To the Russian Government

Regarding the 2006 NGO law

- Amend the 2006 NGO law and relevant implementing regulations to remove the most restrictive provisions, which include:
 - Articles that give Ministry of Justice inspectors the authority to check for compliance with all laws, including those for which oversight authority is assigned to other government bodies;
 - Articles that allow officials to order an unlimited number of intrusive inspections and be present at all NGO events, as well as articles allowing the Ministry of Justice to request dissolution of organizations for not submitting reports and other information;
 - The article granting officials the authority, regarding foreign NGOs, to ban projects or parts of projects that officials believe violate Russia's national interests, and articles requiring them to inform the Ministry of Justice in advance about their projects and about the money allotted for each specific project;
 - Articles that allow officials to reject registration of NGOs for minor mistakes or undefined public interest grounds.
- Ensure that Ministry of Justice officials apply the law consistently across the country, and publish in easily understandable form all available information on the conduct of inspections (including inspection plans), registration procedures, and other relevant documents so that NGOs understand and can be reasonably prepared to comply with the law.
- Reorient the Ministry of Justice's terms of engagement with NGOs. Instead of seeking primarily to punish NGOs for infractions, the Ministry of Justice should seek to inform NGOs about how to comply with their legal obligations and assist them in preventing and correcting any administrative violations.
- Institute a policy of not seeking the dissolution of NGOs except in extraordinary cases clearly defined in legislation and as determined as appropriate by a court.
- Ensure that Ministry of Justice officials use their discretion to impose only those obligations and burdens on NGOs that are legal, strictly necessary, and proportionate, and that foster an environment in which civil society can operate freely.

To safeguard the work and role of NGOs in general

- Acknowledge the essential role of public benefit NGOs in a democratic society by freeing them from corporate tax burdens on grant and other income in line with Council of Europe recommendations, and providing them with other benefits.
- Ensure that government financial support for NGOs is distributed in an impartial and independent manner, based on merits of application for funding, and with full transparency as to the grounds on which grants have been provided and/or refused.
- Thoroughly investigate any cases of unlawful interference, harassment, or intimidation of NGOs, human rights defenders, or civil society activists, and hold accountable those responsible for such abuses.
- Ensure anti-extremism laws are not used to prevent or interfere with peaceful expression of dissent or criticism of the authorities.
- Use public opportunities by government spokespersons at all levels to reinforce the message and policy that NGO work is essential to a democratic society and is supported by the government;
- Respond positively to the longstanding request of the UN Special Rapporteurs on Human Rights Defenders and Freedom of expression to carry out country visits to Russia and agree on dates for such visits at the earliest opportunity.
- Implement the recommendations made by a range of international institutions, including the Council of Europe's Parliamentary Assembly, the Commissioner for Human Rights, the Secretary General, as well as UN special procedures and treaty monitoring bodies, regarding the need to ensure that civil society can function without undue government interference.

To Russia's International Partners, Particularly the European Union, the United States, and the Council of Europe

- Seize every opportunity to raise strong concern about the plight of civil society in Russia and call on the Russian government to take concrete steps to foster an environment in which civil society can operate freely.
- Encourage the Russian government to uphold freedom of expression and association by bringing legislation regulating civil society and its implementation into line with Russia's European and international commitments.
- Publicly express support for the work of NGOs and continue to support them financially and otherwise. Engage Russian civil society groups more intensively in the work around international forums such as the periodic EU-Russia and US-Russia summits, thus stressing the importance of their work.

- Raise deep concern about instances of unlawful interference, harassment, and intimidation of NGOs and their staff and request thorough investigation of each such case and for those responsible to be brought to account.
- Underscore that official harassment of NGOs and restrictions imposed by the NGO law will make Russia vulnerable to litigation at the European Court of Human Rights.

To Donors

- Provide small grant programs and seed money to organizations and individuals to facilitate the registration process, and seek ways to support activists and organizations that operate without legal personality.
- Continue to support Russian civil society groups financially, in particular by helping them to cover legal costs associated with withstanding judicial harassment and complying with requirements imposed by the NGO law.

III. A Hostile Environment

The hostile environment for nongovernmental organizations in Russia is the result of two ongoing processes: first, efforts by Russian authorities to control public participation in government and society, access to information, and independent expression; and second, the Kremlin's successful moves to reign in would-be checks on central executive power—the broadcast and online media, political opposition, the parliament, and direct election of regional governors. The election of President Medvedev occasioned some optimism for a new environment of respect and support for pluralism and civil society, although to date it has not resulted in concrete change.

New President, New Promises, Old Reality?

When Dmitry Medvedev was elected president in March 2008 his reputation as a cautious reformer, and early initiatives after becoming president, raised hopes that he would remove restrictions on civic freedom and ease regulation of NGOs instituted during Vladimir Putin's presidency.²

These hopes quickly proved unfounded, however, as restrictions on the media and hostile rhetoric toward independent civil society continued, changes in the tax regime adversely affected NGO funding, and violence swelled against activists and other public personalities. A presidential decree in May 2008 that ordered the transfer of oversight regulatory authority over NGOs directly to the Ministry of Justice also did not improve the situation.

Little has changed in the Kremlin's domination of the media, which began to take shape in 2000. A media space that once accommodated a wide variety of opinions on television and in much of the print media narrowed to one that portrays the president and government in a positive light and avoids criticism of their policies. Editorial control over all television stations with national reach remains with the Kremlin and its supporters; access to the

² Medvedev was elected with 70 percent of the vote on a 70 percent turnout, but amid claims by Russian and international observers that the campaign was unfair. For example, the voters' rights group Golos claimed there were numerous violations on election day. See "Golos asserts that there were numerous violations during the presidential election" («Общественная организация „Голос“ заявила о многочисленных нарушениях на президентских выборах»), *NEWSru.com*, March 3, 2008, <http://www.newsru.com/russia/03mar2008/golos.html> (accessed October 21, 2008). For the Parliamentary Assembly of the Council of Europe's assessment of the elections, see "PACE says Medvedev won Russian polls, but doubts fairness-2," RIA Novosti, March 3, 2008, <http://en.rian.ru/world/20080303/100504328.html> (accessed October 21, 2008).

media by opposition or critical voices is restricted through coerced self-censorship.³ Online media, news websites, and bloggers have come under special scrutiny recently, with mounting accusations of extremism and libel whose object is to silence them.⁴ The summer 2008 armed conflict with Georgia over South Ossetia occasioned more government moves to control public access to information and media reporting. On August 29 Putin, prime minister since leaving the presidency, reportedly held a private meeting with top media executives at which he took the Russian media to task, and especially the independent radio station *Ekho Moskvy*, for its coverage of the conflict. According to observers, Putin sent a clear message to the media at the meeting not to stray from the Kremlin line.⁵

In a sign of the ever more restrictive controls over the ability to use public assemblies to voice dissent, the vocal opposition movement Other Russia⁶ has been consistently thwarted from conducting public protests, and NGOs that organize protests have been the targets of police harassment and intimidation. In the lead-up to the 2007 parliamentary and 2008 presidential elections, Other Russia's "Dissenters' Marches" were forbidden or severely restricted in several cities.⁷ In June 2008, in the eastern Siberian city of Chita, the prosecutor retaliated against one NGO for demonstrations it organized that were critical of policy made by the local government.⁸ In December 2008 Moscow sent a special police battalion nearly 9,000 kilometers to Vladivostok to suppress protests there amid fears that the local authorities would not crack down on a growing movement against car import tariffs.⁹

³ Editorial control allegedly extends to some government critics being blacklisted from television appearances. See Clifford Levy, "It Isn't Magic: Putin Opponents Vanish From TV," *New York Times*, June 3, 2008, <http://www.nytimes.com/2008/06/03/world/europe/03russia.html> (accessed June 3, 2009).

⁴ Politically motivated allegations of extremism are of particular concern—see Chapter V, "Other Types of Pressure on Civil Society." For more on how defamation law in Russia has been used to silence criticism of the government, see Article 19, "The Cost of Reputation: Defamation Law and Practice in Russia," November 2007, <http://www.article19.org/pdfs/publications/russia-defamation-rpt.pdf> (accessed October 21, 2008).

⁵ Philip Pan, "In Wake of Georgian War, Russian Media Feel Heat," *Washington Post*, September 15, 2008, http://www.washingtonpost.com/wp-dyn/content/article/2008/09/14/AR2008091402249_pf.html (accessed October 22, 2008).

⁶ Other Russia is a loose coalition of activists, scholars, and others. Many Other Russia activists are active in civil society organizations.

⁷ In 2007 police systematically harassed and detained activists planning and participating in a series of Dissenters' Marches. See Human Rights Watch, *Choking on Bureaucracy*, pp. 12-13. In 2008 Other Russia's leader in Tver was reportedly compulsorily admitted to a psychiatric facility after being questioned by the FSB. See Tony Halpin, "Roman Nikolaichik, critic of Vladimir Putin, is sent to mental hospital," *Times* (London), February 6, 2008, <http://www.timesonline.co.uk/tol/news/world/europe/article3315213.ece> (accessed May 18, 2009). For more on restrictions on Other Russia around the 2008 presidential election, see John Wendle, "Opposition Ignores 'Farce' and Plans Marches," *Moscow Times*, March 3, 2008.

⁸ See Chapter IV, "The NGO Law," subsection "NGO dissolution and suspension," Great Source case.

⁹ "Demonstration in Vladivostok shut down with the help of Moscow-region OMON, authorities report 61 arrests" («Акции во Владивостоке подавляли с помощью подмосковного ОМОНа, власти сообщили о 61 задержанном»), *NEWSru.com*, December 22, 2008, <http://newsru.com/russia/22dec2008/vlad61.html> (accessed June 1, 2009). The group that organized

Hostile Rhetoric Toward NGOs

Like the independent media, civil society organizations have come under fire from Russia's leaders and the media, a dynamic that compounds the financial and other stresses that Russia's nongovernmental organizations are forced to deal with. These efforts appear aimed at discrediting NGOs, especially those that are foreign-funded or that work on controversial issues. They continued in the first year of Medvedev's presidency, particularly in the aftermath of the conflict over South Ossetia.

As he did during his presidency, Prime Minister Putin continued to try to raise doubt about the allegiances of certain Russian NGOs, such as when, in a September 2008 speech, he accused "certain nongovernmental organizations" of trying to peel away Russia's Caucasian republics.¹⁰ Earlier in the year the director of the Federal Security Service (FSB) accused unspecified foreign NGOs of supporting and recruiting terrorists in Russia.¹¹

Taking their cue from government leaders, state-controlled and -affiliated media outlets continue to try to discredit foreign-funded NGOs. On June 27, 2008, the television show *State of Emergency* on NTV ran a sensational episode that alleged that Russia's political opposition and Russian human rights defenders work for foreign spy agencies, with a goal of removing the president from power. During the show, the director of one NGO that had received funding from the European Union was shown calling foreign-funded NGOs "fraudsters and gamblers," and saying their goal was to provoke the police into cracking down on protesters, for use in Western propaganda.¹²

the protests later sought registration, but was refused because of minor mistakes in its application. See "Passions for TIGR" («Страсти по ТИГРу»), *Expert*, April 15, 2009, <http://www.expert.ru/news/2009/04/15/tigreg/> (accessed June 1, 2009).

¹⁰ Speech of Prime Minister of Russia V. V. Putin at a Meeting with Members of the Fifth Meeting of the Valdai Discussion Club, September 11, 2008, <http://www.government.ru/content/governmentactivity/mainnews/archive/2008/09/11/8225672.htm> (accessed December 1, 2008). "Putin: Russia protected South Ossetia, having stopped the demolishing of Russia through NGO activity" («Путин: Россия защитила Южную Осетию, помешав развалить РФ через деятельность НПО»), *Kavkazsky Uzel*, September 11, 2008, <http://www.kavkaz-uzel.ru/newstext/news/id/1228804.html> (accessed June 1, 2009).

¹¹ These vague and unsubstantiated claims against foreign-funded NGOs may directly impact government policy toward them. Shortly after the FSB director's comment about NGOs helping to recruit terrorists, the Ministry of Justice in one region announced that all foreign-funded NGOs would be inspected. See "The branch of the Registration Service for the Republic of Chuvashia intends to inspect all NGOs receiving foreign funding" («Управление Росрегистрации по республике Чувашия намерено проверить все НКО, получающие иностранное финансирование»), *Civitas.ru*, April 29, 2008, <http://www.civitas.ru/news.php?code=4855> (accessed June 1, 2008). See also Natasha Kuklina, "Patrushev found terrorists in NGOs" («Патрушев нашел террористов в НПО»), *Gazeta.ru*, April 8, 2008, http://www.gazeta.ru/politics/2008/04/08_a_2689664.shtml (accessed June 1, 2008).

¹² "Humanitarian Web" («Гуманитарный паек»), video report, NTV, June 27, 2008, reproduced at <http://rutube.ru/tracks/799234.html?v=c2d4917b9f6b70c5c5af7of96c25d813> (accessed July 2, 2008).

In 2007 the government tried to discredit NGOs in St. Petersburg that received funding by the Dutch government fund MATRA;¹³ these efforts continued in 2008. In April 2008 *Nevskoe Vremya*, a St. Petersburg newspaper whose parent company is close with the Kremlin, published an article accusing two NGOs funded by MATRA of giving the fund direct access to the Russian law enforcement and judicial systems, presumably to undermine them. The article, “Dutch Cheese is Found Only in a Mousetrap,” alleged that at one NGO event supported by MATRA, “foreigners received direct access to the personnel database, and examined the methods and tools of our law enforcement group.”¹⁴ The event’s sponsors vigorously deny those unsubstantiated claims.¹⁵

Violence and threats

Hostility toward civil society activists and journalists has manifested itself with increasing frequency in threats, violent attacks, and killings. The goal of these attacks, especially against those who speak out about xenophobia in Russia and about human rights violations in the North Caucasus, can only be to silence these important voices for human rights and the rule of law. No one has been held accountable for these crimes.

The director and deputy director of the SOVA Center for Information and Analysis, an independent research center that monitors ultranationalism and xenophobia in Russia, have been repeatedly threatened by neo-Nazi groups for their work. In early 2008 SOVA Center director Alexandr Verkhovsky’s name, home address, and other personal details featured in a list of “enemies of the Russian people” that a neo-Nazi group posted on its website, along with direct appeals to kill the activists. Since then Verkhovsky and his deputy, Galina Kojevnikova, have received numerous anonymous telephone and email threats. People Verkhovsky identified as neo-Nazis visited Verkhovsky’s apartment building in July 2008 and again twice in February 2009, seeking to lure him from his apartment. A film that included footage of the July 2008 incident was posted on the internet, identifying Verkhovsky as a key enemy and a priority target for violence. After Verkhovsky reported the July 2008 visit the

¹³ In 2007, organizations funded by MATRA were followed under FSB suspicion of seeking to undermine Russia and were inspected by the Ministry of Justice at around the same time. For details on the case of one of these organizations, the Center for Enlightenment and Research Programs (CERP), see Human Rights Watch, *Choking on Bureaucracy*. <http://www.hrw.org/en/reports/2008/02/19/choking-bureaucracy-0..>, pp. 42-43.

¹⁴ While the article is no longer on the newspaper’s website, it has been republished online. See Vasily Lensky, “Dutch Cheese is Found Only in a Mousetrap” («Голландский сыр бывает только в мышеловке»), *Nevskoe Vremya* (St. Petersburg), April 8, 2008, reproduced at <http://www.lenizdat.ru/ao/ru/pm1/c-1061045-0.html> (accessed June 1, 2009). See also Human Rights Watch interview with Boris Pustyntsev, chair, Citizens’ Watch, St. Petersburg, April 10, 2008. According to Pustyntsev, the author of the article told him in a meeting after the article was published that his source was someone “higher up.”

¹⁵ Human Rights Watch interview with Boris Pustyntsev, April 10, 2008.

prosecutor's office initiated a criminal investigation into "threats of murder," but the investigation was later suspended with no suspects identified.¹⁶

Lev Ponomarev, director of the human rights group For Human Rights, was attacked on March 31, 2009, by unidentified assailants who punched and kicked him, causing hemorrhaging in his eyes and severe bruising all over his body. The assault happened near Ponomarev's home in Moscow, as he was returning from meeting with a member of the Parliamentary Assembly of the Council of Europe.¹⁷ According to Ponomarev, even though the authorities pledged to thoroughly investigate the attack, he was contacted by the investigator only about a week after the beating, just after a press conference on the attack was announced by several NGOs. At this writing, the attack remains unsolved.¹⁸

Several human rights advocates have been killed in the past year.¹⁹ Stanislav Markelov, a prominent lawyer, and Anastasiya Baburova, an intern at Russia's leading independent newspaper *Novaya Gazeta*, were shot on a central Moscow street in January 2009; Markelov died immediately, while Baburova was fatally wounded and died in the hospital.²⁰ Markelov had represented numerous victims of human rights abuses in Chechnya, including one man who alleged having been held for months in a secret prison run by the Chechen president, Ramzan Kadyrov.²¹ Markelov's killing echoed that of one of his former clients, Anna Politkovskaya, a prominent journalist and human rights champion who investigated government abuses in Chechnya. The perpetrators of Politkovskaya's October 2006

¹⁶ Front Line, "Ongoing threats and harassment against human rights defender, Mr Alexander Verkhovsky," Urgent Action, March 3, 2009, <http://www.frontlinedefenders.org/node/1823> (accessed May 5, 2009). "Russia: Investigate Threats to Civic Group," Human Rights Watch news release, February 25, 2009, <http://www.hrw.org/en/news/2009/02/25/russia-investigate-threats-civic-group>.

¹⁷ "Attacks and murders must finally start to be investigated!" («Нападения и убийства надо, наконец, начать расследовать!»), open Letter from Lyudmila Alekseeva, chair of Moscow Helsinki Group, et al., to President Dmitry Medvedev, April 7, 2009, reproduced at <http://www.zaprava.ru/content/view/1805/2/> (accessed June 1, 2009).

¹⁸ News conference by Lyudmila Alekseeva, Moscow Helsinki Group, Svetlana Gannushkina, Civic Assistance, et al., Moscow, April 7, 2009.

¹⁹ In addition to the cases mentioned here, the August 2008 killing of Magomed Yevloev, owner of the opposition-affiliated website *Ingushetiya.ru* who was shot in the head in police custody shortly after being illegally detained, was also apparently aimed at sending a chilling message to activists critical of the authorities. The authorities have declined to conduct a full investigation into Yevloev's detention and subsequent killing. For more on the killing of Magomed Yevloev, see Catherine Beton, "Tension in Ingushetia after journalist's death," *Financial Times* (London), September 3, 2008, <http://www.ft.com/cms/s/0/e4693d2c-791d-11dd-9doc-000077b07658.html> (accessed May 5, 2009).

²⁰ "Russia: Investigate Murder of Prominent Rights Lawyer," Human Rights Watch news release, January 19, 2009, <http://www.hrw.org/en/news/2009/01/19/russia-investigate-murder-prominent-rights-lawyer>.

²¹ Markelov succeeded in getting the Chechnya prosecutor's office to open a criminal case based on his client's allegations. The client, Mokhmadalakh Masaev, was abducted by unidentified law enforcement personnel in Grozny on August 3, 2008, several weeks after *Novaya Gazeta* published an interview with him. His fate and whereabouts remain unknown. See "Russia: Torture Victim Abducted in Chechnya," Human Rights Watch news release, August 5, 2008, <http://www.hrw.org/en/news/2008/08/05/russia-torture-victim-abducted-chechnya>.

assassination, one of 15 unsolved murders of journalists in Russia since 1999, have not been held accountable.²² A trial of three suspects ended in February 2009 in their acquittal.²³

Hopes for Reform

In April 2009 President Medvedev signaled clearly that it was time to reverse the hostile rhetoric, to relax restrictions on civil society, and to amend laws regulating NGOs. Meeting with his Council for Civil Society Institutions and Human Rights he said, “It is no secret that there is a seriously distorted perception of human rights activities in our country.” Medvedev acknowledged that the authorities had limited important freedoms in Russia, and that “the [NGO] law is clearly not ideal” and some changes were “necessary.” More specifically, he acknowledged a “mass of cases, where the work of nonprofit organizations has been limited without sufficient cause.” This was because “many government workers see [in NGO work] a threat to their absolute power.”²⁴

These positive statements appear to build on Medvedev’s focus on overcoming Russia’s culture of “legal nihilism.” During the presidential campaign, Medvedev had spoken forcefully and often about reinforcing the rule of law, and about the government’s cooperating with independent civil society organizations, saying cooperation with NGOs “in realizing social and civil goals” was “without doubt a priority of a democratic government.”²⁵ Medvedev also promised to tackle head-on the culture of “legal nihilism” and rampant corruption, a challenge he suggested civil society and the government could overcome together.²⁶

Positive rhetoric is welcome, but past experience shows that this is not enough to create real progress. For example, in the months preceding Medvedev’s meeting with the Civil Society Institutions and Human Rights Council, the Ministry of Justice on March 31, 2009, issued new administrative regulations,²⁷ five months after they had been released on the ministry’s

²² Committee to Protect Journalists, “Getting Away with Murder 2009,” March 23, 2009, <http://cpj.org/reports/2009/03/getting-away-with-murder-2009.php> (accessed May 6, 2009).

²³ “Anna Politkovskaya: No Justice,” Human Rights Watch commentary, February 20, 2009, <http://www.hrw.org/en/news/2009/02/20/anna-politkovskaya-no-justice>.

²⁴ Transcript of meeting with President Medvedev and his Council for Civil Society Institutions and Human Rights, Moscow, April 15, 2009, <http://sovetspamfilova.ru/18197.php> (accessed May 2, 2009).

²⁵ Dmitry Medvedev, Speech at the Second All-Russian Civil Forum, http://www.medvedev2008.ru/performance_2008_01_22.htm (accessed October 27, 2008).

²⁶ “Medvedev becomes Russia’s leader,” *BBC News Online*, May 7, 2008, <http://news.bbc.co.uk/2/hi/europe/7386940.stm> (accessed December 1, 2008).

²⁷ Ministry of Justice Order 90 on Confirming the administrative regulation by the Ministry of Justice of the Russian Federation of the state function to carry out oversight over the activities of noncommercial organizations for compliance with their

website for comment. Several experts on NGO regulations in Russia had submitted detailed commentary on the new regulations. Expert commentary urging broad modifications to the regulations, however, seems to have had a mixed impact: According to one NGO lawyer, while the Ministry of Justice replicated some positive changes recently instituted for commercial organizations in the regulation on inspections of NGOs, in the regulation on NGO registration “not one proposal from human rights defenders and public-interest lobbyists for NCOs was taken into account.”²⁸

NGO Financing: A Matter of Survival

The Kremlin has made clear that the 2006 law aims to control and monitor foreign funding of NGOs, which it has viewed with intense suspicion since the so-called color revolutions in Georgia in 2003 and Ukraine in 2004. In addition to accusing such NGOs of fomenting revolution, Russia’s leaders have accused them of recruiting terrorists; even Medvedev, during his election campaign, suggested that foreign-financed organizations “in addition to educational functions, carry out a mass of other tasks that they don’t widely advertise. This includes the collection of information, and also reconnaissance work.”²⁹

Taxes, including wider taxation of foreign funding

Hostility toward the funding of NGOs by foreign donors was manifested in policy when in June 2008 Prime Minister Putin issued a decree that reduced from 101 to 12 the number of foreign and international organizations allowed to give tax-free grants in Russia.³⁰ Many organizations and commentators condemned the decree as an attempt by a government suspicious of foreign foundations to further restrict civil society in Russia.³¹ The director of the Russian affiliate of the World Wildlife Fund, an organization affected by the change,

charters’ goals and tasks, and over the activities of branches and representative offices of international organizations and foreign noncommercial nongovernmental organizations for compliance with their stated goals and tasks and also compliance with legislation of the Russian Federation, March 31, 2009. This replaces Ministry of Justice Order 222, of July 11, 2006.

²⁸ Pavel Chikov, “New Ministry of Justice Administrative regulation on NGO inspections” («Минюст принял новый Административный регламент по проверкам НКО»), *Open Information Agency*, April 9, 2009, <http://www.openinform.ru/news/survey/09.04.2009/11448>; and Pavel Chikov, “NCOs of Russia – once again attached and numbered” («НКО России – снова в прошитом и пронумерованном виде»), *Open Information Agency*, April 14, 2009, <http://www.openinform.ru/news/survey/14.04.2009/11499> (both accessed April 23, 2009).

²⁹ Aido Ivanova, “Foreigners already won’t help us” («Заграница нам уже не поможет»), *Nashe Vremya* (Yakutsk, Russia), April 24, 2009, <http://www.nvpress.ru/?id=24040909&dates=24/4/2009> (accessed April 30, 2009).

³⁰ Government of Russia Order 485 On the list of international organizations whose grants received by taxpayers are not subjected to tax and are not counted as income for Russian organizations receiving grants, for the sake of taxation, <http://www.government.ru/content/governmentactivity/rfgovernmentdecisions/archive/2008/06/28/1108057.htm> (accessed November 20, 2008).

³¹ Charles Digges, Bellona, “Prime Minister Putin slaps tax on foreign NGOs in effort to purge Russia of foreign influence,” July 3, 2008, http://www.bellona.org/articles/articles_2008/ngo_tax (accessed August 13, 2008).

linked the decree to other efforts to restrict civil society organizations in Russia and called the change a “result of efforts of [Russia’s] intelligence forces ... those who already introduced practically full control of the state over the activities of NGOs.”³² According to another donor wishing to remain anonymous for fear of further complications, it “[o]bviously ... is a move to sweep us all out the door.”³³ Defending the policy, President Medvedev said, “I doubt that any developed Western country would tolerate such an overwhelming flood of foreign capital into its own ‘third sector.’”³⁴

The new policy put in jeopardy tens of millions of US dollars of grants to NGOs in Russia. Major donors not found on the new list include the Global Fund to fight AIDS, Tuberculosis and Malaria, the MacArthur Foundation, the Ford Foundation,³⁵ the World Wildlife Fund, and the International Federation of Red Cross and Red Crescent Societies. NGOs receiving grants from donors not on the list will be required to pay a 24 percent tax on “profits” under the new rules, which entered into force on January 1, 2009. The decree required that a procedure be established for foreign organizations to petition for inclusion in the tax-free list, yet at this writing it appears that no organizations have been added to the list.

Several NGOs told Human Rights Watch that they fear that as a result of the new rule, foundations will stop making grants in Russia. One director of an organization that works on HIV/AIDS in Tomsk said that she believes a “lion’s share of [foreign] grants will be taxed” under the new decree, and added that she isn’t sure how her organization will be funded in 2009 and beyond, in part because of the new restrictions on the Global Fund in Russia.³⁶

Levying taxes on NGO income contravenes the 2007 recommendation of the Council of Europe’s Committee of Ministers on the legal status of non-governmental organizations (Committee of Ministers’ Recommendation), a nonbinding document that states that “NGOs

³² Neil Buckley, “Putin acts to slash NGOs with tax breaks,” *Financial Times*, July 3, 2008, http://www.ft.com/cms/s/0/f7010f0c-4923-11dd-9a5f-000077b07658.html?nclick_check=1 (accessed May 12, 2009).

³³ Bellona, “Prime Minister Putin slaps tax on foreign NGOs in effort to purge Russia of foreign influence.”

³⁴ Svetla Marinova, “Russia: No Country for Charitable Souls,” *EurasiaNet*, August 1, 2008, <http://www.eurasianet.org/departments/insight/articles/eavo80108.shtml> (accessed November 20, 2008).

³⁵ The Ford Foundation announced in April 2009 that it would close its Moscow office and almost completely curtail its grantmaking in Russia. See Mike Spector, “Ford Foundation to Close Two Overseas Offices,” *Wall Street Journal*, <http://online.wsj.com/article/SB124103990271770173.html> (accessed April 30, 2009). It is unclear whether the new restrictions on foreign funders had any impact on the Ford Foundation’s decision to close its Russia office.

³⁶ Human Rights Watch interview with Yulia Kondinskaya, director of Siberia AIDS Aid, Tomsk, July 31, 2008.

should be assisted in the pursuit of their objectives through public funding and other forms of support, such as exemption from income and other taxes.”³⁷

In an encouraging sign, the current draft of Russia’s Long-term Social and Economic Development Plan generally indicates that social service NGOs should receive tax benefits.³⁸ It is unclear, however, what NGOs would receive tax benefits and what exactly those benefits would be under the plan. It bears noting, too, that when it comes to direct taxation of Russian NGOs’ income, the present environment is reasonably benign, to the extent that many NGOs have the option of switching from a more complex, general tax system, to a simplified tax system.³⁹ Even though the simplified tax system does not offer special benefits on the taxation of grants, experts on NGO law in Russia have called it “preferred, because in comparison with the normal regime of taxation [it] results in savings on taxes.”⁴⁰

Losing subsidies on office space

In addition to losing tax privileges for grants from most foreign sources, many NGOs also stand to lose privileged rental arrangements for government property in connection with a law passed in June 2008.⁴¹ The modified law on competition forbids the authorities from giving preference to NGOs when deciding with whom to conclude rental agreements, requiring that contracts go through a competition or auction. An effort is underway in the State Duma that would reverse this and would once again allow the leasing of space to government corporations and NCOs without an auction. At this writing the measure had passed the first of three readings necessary to become law.⁴²

³⁷ Council of Europe Committee of Ministers, “Recommendation CM/Rec(2007)14 of the Committee of Ministers to member states on the legal status of non-governmental organisations in Europe,” October 10, 2007, <https://wcd.coe.int/ViewDoc.jsp?id=1194609> (accessed December 2, 2008).

³⁸ “Plan for Long Term Social and Economic Development of the Russian Federation Through 2020, Government of the Russian Federation,” approved November 17, 2008, <http://www.government.ru/content/governmentactivity/rfgovernmentdecisions/archive/2008/11/17/69b3495c378e451db8df6c3a265a755b.doc> (accessed June 5, 2009), p. 70.

³⁹ The simplified tax system is available to commercial and noncommercial organizations alike, as long as they have less than 15 million rubles (\$500,000) in income in the first 9 months of the tax year, and are not disqualified by various other provisions of the tax code.

⁴⁰ For an analysis of the benefits for NGOs of the simplified tax system, see Ramil Ahmetgaliev et al., *Nongovernmentals: A Decade of Survival* (Kazan: Fatherland, 2008), p. 117.

⁴¹ Law on Introducing Amendments to the Federal Law on Concession Agreements and Other Acts of the Russian Federation, No. 108-FZ, 2008.

⁴² “Noncommercial organizations will be allowed to rent space without auctions” («Некоммерческим организациям разрешат арендовать помещения без торгов»), Rosbalt Information Agency, February 13, 2009, <http://www.rosbalt.ru/2009/02/13/618192.html> (accessed June 6, 2009).

A government is under no obligation to provide office space to NGOs at below market rates. But in Russia this development contributes to the financial hardships some NGOs now face.

In interviews throughout Russia, many NGOs reported receiving subsidized or special rates for office space rented from local, regional, or national authorities. For example, the Family Planning Association in Khabarovsk and Humanitarian Project in Novosibirsk are two organizations that receive subsidized office space from the government.⁴³ Under the new rules requiring competitions, NGOs compete with for-profit enterprises that will likely be able to offer higher prices. Dmitry Ufimtsev, deputy director of the Humanitarian Project, an organization that runs educational programs on health lifestyles and provides support to HIV- and AIDS-affected people, told Human Rights Watch that his organization would have trouble finding suitable and affordable space without government support.⁴⁴

Politicization in Public Chamber grant-making

In the past, many NGOs were funded primarily or exclusively by foreign donors; Russian private donation to NGOs is generally low.⁴⁵ However, in recent years the government began supporting NGOs through the Public Chamber, the institution introduced by then-President Putin in 2004 to coordinate the interests of Russian citizens, NGOs, and the authorities.⁴⁶ It is a consultative council that analyzes draft legislation, monitors the activities of federal and regional authorities, and provides feedback to the government.

Through the Public Chamber 2008 grant competition, 1.5 billion rubles (US\$50 million) of government funds were distributed, a large increase from the 250 million rubles in 2006 and an increase over the 1.25 billion rubles in 2007.⁴⁷ The competition is administered by NGOs contracted by the Public Chamber, which are responsible for selecting grant recipients as well as dispersing funds. While many NGOs have welcomed government support, others harbor serious concerns about the connections both the grant makers and recipients have with the authorities, and the process for distributing grants.

⁴³ Human Rights Watch interviews with Irina Taenkova, director of Family Planning Association, Khabarovsk, September 24; and Dmitry Ufimtsev, deputy director of Director of the Humanitarian Project, Novosibirsk, July 29, 2008.

⁴⁴ Human Rights Watch interview with Dmitry Ufimtsev, July 29, 2008.

⁴⁵ According to a TsIRKON poll conducted in summer 2008, only 3 percent of respondents had given money to philanthropic organizations and NGOs in the previous year. See Research Group TsIRKON, "Public Support for NCOs in Russia's Regions: Problems and Perspectives," June 10, 2008, http://www.socpolitika.ru/files/8019/Report_Public_Opinion.pdf (accessed December 1, 2008), table 2.1-2.

⁴⁶ The Public Chamber consists of 126 members, one-third of whom are selected by the president of the Russian Federation.

⁴⁷ "Press release for the mass media on the competition 'NCO 2008,'" Public Chamber of the Russian Federation, <http://www.oprf.ru/678/679/680/> (accessed December 2, 2008).

For example, the NGO Resistance (*Soprotivlenie*), which will be responsible for making Public Chamber grants in the area of human rights advocacy and education in 2009, appears very positively disposed toward Russia's law-enforcement agencies: its website contains endorsements of these agencies' leadership, policies, and positions.⁴⁸ Another of the contractors for the 2009 competition (and the one with the biggest budget), the National Philanthropic Fund, was started by Putin in 1999.⁴⁹

Having strong government connections should not disqualify an NGO from running a grants competition involving public monies. But in the case of the Public Chamber grant competition, such connections on the part of contracted grant makers has raised legitimate questions about whether the contractors would give fair consideration to certain NGOs, such as human rights "watchdogs" that are critical of the authorities, or to groups out of the government's favor. These concerns were strongest in 2006, when several prominent human rights organizations submitted applications but did not win any funding.⁵⁰ In 2007 and 2008 several human rights organizations did win grants. So too, however, did a number of prominent, overtly political organizations associated with the Kremlin. For example, the fiercely pro-Kremlin youth organization *Nashi* won 6 million rubles (\$250,000) in 2007 for its summer "educational forum," a free two-week camp for *Nashi*'s activists that combined lakeside relaxation with activities, some of which appear designed to marginalize the political opposition and vilify "Russia's enemies."⁵¹ In 2008 *Nashi* won another 7.15 million rubles for the 2008 summer forum and 8 million rubles for other educational events—the

⁴⁸ Human Rights Watch visited Resistance's website (<http://www.soprotivlenie.org>) on May 12, 2009, and found numerous interviews and speeches with the prosecutor general, President Medvedev, and other government representatives highlighted in the Main, Opinions, and News sections, many reproduced from government resources.

⁴⁹ For more on Resistance, see Aleksandr Podrabinek, "Surrounding the Pedestal..." («Окружая пьедестал...»), *Ezhednevny Zhurnal*, March 20, 2009, <http://ej.ru/?a=note&id=8907> (accessed March 21, 2009). For more on the other NGO operators, see Svetlana Bocharova, "Who is Spending 'our' Money" («Кто тратит „наши“ деньги»), *Gazeta.ru*, March 18, 2008, http://www.gazeta.ru/politics/2009/03/18_a_2960225.shtml (accessed March 21, 2009).

⁵⁰ For example, some cite a provision of the 2006 competition requiring applicants to have "experience of productive cooperation with government and municipal structures," as excluding NGOs that are critical of the government. One article notes that letters of support from the authorities in support of an organization would "seriously enhance its chances" of winning funding. See Natalya Kostenko, "The Cash Has Left" («Кэш пошел»), *Nezavisimaya Gazeta* (Moscow), July 3, 2006, http://www.ng.ru/politics/2006-07-03/3_cash.html (accessed December 2, 2008).

⁵¹ According to one journalist who visited the camp in 2007, the grounds were covered with "indecent photo-collages with images of [political opposition leaders] Kasparov, Kasyanov, and Limonov accompanied by accusations of political prostitution and fascism." At lectures, camp leaders explained how the US, the UK, and Estonia are "enemies of Russia." For the full account, see Sergei Guriev, "Seliger: Our Alternative" («Селигер: Наша смена»), *Vedomosti* (Moscow), July 27, 2007, <http://www.vedomosti.ru/newspaper/article.shtml?2007/07/27/129985> (accessed March 26, 2009). *Nashi*'s other activities against Russia's "enemies" have included a cyber-attack on the internet infrastructure of Estonia, which one of the organization's leaders and a member of Russia's State Duma, Sergei Markov, admitted to. See Charles Clover, "Kremlin-backed group behind Estonia cyber blitz," *Financial Times*, March 11, 2009, <http://www.ft.com/cms/s/0/57536d5a-odd-11de-8ea3-0000779fd2ac.html> (accessed March 15, 2009).

total amount, at over 15 million rubles (\$500,000) is around 1 percent of the total Public Chamber grants.⁵²

⁵² For more on *Nashi's* 2008 grant, see “*Nashi* received 15 million ruble government grant and they think they deserve the money” («„Наши“ получили от государства грант на 15 млн рублей и считают, что заслужили эти деньги»), *NEWSru.com*, November 1, 2008, <http://www.newsru.com/russia/01nov2008/nashi.html> (accessed November 1, 2008). For more on the 2007 grant, see Ksenia Solyanskaia, “*Nashi* draws from the government budget” («„Наши“ освоили госбюджет»), *Gazeta.ru*, November 6, 2007, http://gazeta.ru/politics/2007/11/06_a_2292523.shtml (accessed December 2, 2008). Just months before the 2008 grant, *Nashi's* continuation had been in doubt—see Ekaterina Savina et al., “*Nashi* have become strangers” («„Наши“ стали чужими»), *Kommersant* (Moscow), January 29, 2008, <http://www.kommersant.ru/doc.aspx?DocsID=846635> (accessed December 2, 2008). *Nashi* means “Ours.”

IV. The NGO Law

In 2006 the Russian Duma passed amendments to the two main laws governing non-profit nongovernmental organizations: the 1995 Law on Public Associations and the 1996 Law on Noncommercial Organizations.⁵³

The 2006 NGO Law significantly expanded state officials' discretion to reject the registration of NGOs, to inspect NGOs, and to require reporting from NGOs, and gave the authorities broad powers over the operations of foreign NGOs working in Russia.⁵⁴ This discretion is broad, vague, and open to discriminatory and arbitrary misuse; revised administrative regulations brought in at the end of March 2009 (see Chapter III, section "Hope for Reform") have essentially not changed that. This, combined with the abusive application of some potentially mundane, if onerous, administrative regulations, threatens both the exercise of freedom of association to establish and run NGOs, and the freedom of expression of NGOs.

The 2006 NGO Law and its accompanying regulations are clearly inconsistent with the 2007 recommendation of the Council of Europe's Committee of Ministers on the legal status of non-governmental organizations (Committee of Ministers' Recommendation), a nonbinding document defining "minimum standards to be respected concerning the creation, management and the general activities of NGOs."⁵⁵

In its 2009 report, the Expert Council on NGO Law—a body created under the auspices of the Council of Europe Conference of International NGOs to evaluate the conformity of member states' NGO-related laws and practices with Council of Europe standards and European

⁵³ The full name of the Law is the Federal Law on Introducing Amendments to Certain Legislative Acts of the Russian Federation No. 18-FZ, 2006, amending the law on Closed Administrative Territorial Formations No 3297-1, 1992; Law on Public Associations No. 82-FZ, 1995; Law on Non-Commercial Organizations No. 7-FZ, 1996; and article 61 of the Russian Federation Civil Code. Hereinafter, the NGO law.

⁵⁴ Under the NGO law, the Ministry of Justice holds broad power to forbid projects or parts of projects carried out by foreign NGOs operating in Russia and to restrict funding from foreign NGOs, and foreign NGOs are subjected to more stringent reporting requirements. For more on operations of foreign NGOs in Russia under the NGO law, see Human Rights Watch, *Choking on Bureaucracy*, <http://www.hrw.org/en/reports/2008/02/19/choking-bureaucracy-o>, pp. 32 and 48-49.

⁵⁵ "Recommendation CM/Rec(2007)14 of the Committee of Ministers to member states on the legal status of non-governmental organisations in Europe," <https://wcd.coe.int/ViewDoc.jsp?id=1194609>. The Recommendation was adopted by the Council of Europe's Committee of Ministers, having been drafted by a Group of Specialists on the legal status of NGOs, and taking as its impetus statements made by the Heads of State and Government of the Council of Europe member States in 2005 at their Third Summit. The Committee of Ministers recommendation in large part mirrors the Fundamental Principles on the Status of Non-governmental Organizations in Europe, a nonbinding standard drawn up by the Council of Europe that sets out best practices for the regulation of NGOs, with a view to ensuring that they benefit from freedom of association and fulfill duties and obligations. See Fundamental Principles on the Status of Non-governmental Organizations in Europe, Council of Europe, November 13, 2002, http://www.coe.int/t/e/legal_affairs/legal_co-operation/civil_society/basic_texts/Fundamental%20Principles%20E.asp (accessed November 27, 2008).

practice—criticized various aspects of Russia’s NGO regime, concluding that it “needs to be seriously simplified and built on straightforward bases.” Referring to two of the most important provisions of the Committee of Ministers’ Recommendation, the Expert Council said Russia’s NGO law “clearly [has] a number of incompatibilities with the notion of ‘flexible regime governing the acquisition of legal personality’ or registration, [and] ‘easy to understand and satisfy.’”⁵⁶ It stated that in a number of aspects—including those relating to the founding of NGOs and registration—Russia’s NGO legislation needs reform.⁵⁷

European Convention on Human Rights

As a member of the Council of Europe since 1997 and a party to the European Convention on Human Rights (ECHR) since 1998, Russia has binding and clear obligations to respect both freedom of association and expression. The European Convention on Human Rights and the International Covenant on Civil and Political Rights (ICCPR) allow only those restrictions to the freedom of association that are properly provided for in law and “necessary in a democratic society” for a clearly defined set of grounds (including public order and national security).⁵⁸ Russia seems to be selectively disregarding these obligations in its current strategy toward human rights NGOs and social activists.

Russia has already been found by the European Court of Human Rights (ECtHR) to have violated the right to freedom of association, notably in two cases involving religious organizations, in circumstances that bear striking similarity to the current application of the NGO law to human rights and social activist organizations.⁵⁹ The use of the NGO law to place obstacles in the way of NGOs’ forming and operating efficiently, and to impose administrative and bureaucratic demands on them in such a way as to ensure control and restraint on their activities, is clearly incompatible with the principles of the case law set out

⁵⁶ Conference of INGOs of the Council of Europe, “First Annual Report: Conditions of Establishment of Non-Governmental Organisations,” OING Conf/Exp (2009) 1, January 2009, http://www.coe.int/t/e/ngo/public/Expert_Council_NGO_Law_report_2008.pdf (accessed April 2, 2009), para. 280.

⁵⁷ *Ibid.*, para. 281. For a more detailed analysis of the consistency of Russia’s NGO laws with the Committee of Ministers’ Recommendation and Council of Europe standards, see *Ibid.*, paras. 256-281.

⁵⁸ European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR), 213 U.N.T.S. 222, entered into force September 3, 1953, as amended by Protocols Nos 3, 5, 8, and 11 which entered into force on September 21, 1970, December 20, 1971, January 1, 1990, and November 1, 1998, respectively, art. 11. Russia became a party to the ECHR on May 5, 1998. Article 22 of the International Covenant on Civil and Political Rights (ICCPR) also sets out that the only restrictions permissible on freedom of association are those “which are prescribed by law and which are necessary in a democratic society in the interests of national security or public safety, public order (*ordre public*), the protection of public health or morals or the protection of the rights and freedoms of others.” International Covenant on Civil and Political Rights, adopted December 16, 1966, G.A. Res. 2200A (XXI), 21 U.N. GAOR Supp. (No. 16) at 52, U.N. Doc. A/6316 (1966), 999 U.N.T.S. 171, entered into force March 23, 1976. Russia ratified the ICCPR on October 16, 1973.

⁵⁹ See *The Moscow Branch of the Salvation Army v. Russia*, no. 72881/01, Judgment of October 5, 2006, and *Church of Scientology Moscow v. Russia*, no. 18147/02, Judgment of April 5, 2007, both judgments available at www.echr.coe.int.

by the Court in its cases on freedom of association, and the obligations states owe to individuals seeking to establish and run organizations.⁶⁰

The punitive, invasive elements of the law and the way in which it is implemented, as described below, are contradictory to Russia's obligations under international and regional law to respect freedom of expression and association, and have a choking effect on the exercise of those rights.

Transfer of Authority to the Ministry of Justice

Until May 12, 2008, the Federal Registration Service and its regional branches conducted the registration and oversight of NGOs, including for their compliance with the 2006 law. The Federal Registration Service was a quasi-independent entity under the Ministry of Justice. A May 12, 2008 presidential decree transferred the Federal Registration Service's NGO regulatory functions directly to the Ministry of Justice (ultimately to the latter's NGO department) and scheduled the Federal Registration Service for dissolution in October 2008.⁶¹ (For the sake of simplicity this report uses "Ministry of Justice" and "Ministry of Justice regional NGO Departments" to refer to the Federal Registration Service and its regional branches before Medvedev's order entered into force, and to the Ministry of Justice and its regional NGO departments after Medvedev's order entered into force.)

Russian civil society organizations speculated as to whether the transfer would bring change to government NGO policy, but as the findings below show, there is no evidence so far of a break with past practices. According to one NGO lawyer, the same widely-criticized rules and regulations guiding NGO registration and oversight remain in force.⁶² In many cases, the responsible Ministry of Justice managers and employees were formerly Registration Service staff.⁶³

⁶⁰ Discussed in Human Rights Watch, *Choking on Bureaucracy*, <http://www.hrw.org/en/reports/2008/02/19/choking-bureaucracy-o>, pp. 27-28.

⁶¹ Order of the President of the Russian Federation of 12 May 2008, "Questions on the system and structure of federal organs of executive authority," May 12, 2008, <http://www.rg.ru/2008/05/13/struktura-vlasti-dok.html> (accessed December 2, 2008). According to the Ministry of Justice, the Ministry operates 80 regional branch offices that are responsible for overseeing 227,577 organizations. Former Federal Registration Service NGO regulatory functions included publishing statistics. See Federal Registration Service, "Information on the work of the territorial organs of Rosregistratsia in the area of registration and control of noncommercial organizations as of 01.01.2008," undated, http://www.rosregistr.ru/docs/reg_nko_2007.xls (accessed July 16, 2008). Hereinafter these are referred to as Ministry of Justice statistics. As of this writing, Human Rights Watch has been unable to locate similar statistics on the work of the central or regional NGO departments for 2008 or 2009."

⁶² Human Rights Watch interview with Ilnur Sharapov of the lawyers' group AGORA, Moscow, November 17, 2008.

⁶³ For example in the Chuvashia Ministry of Justice branch office. Human Rights Watch interview with Rumia Bagaudinova, director of the NGO Department, and Anatoly Sofronov, Ministry of Justice in Chuvashia, Cheboksary, September 9, 2008.

The 2006 NGO Law in Practice

Compliance with the 2006 NGO law has proved onerous for NGOs across Russia. Human Rights Watch’s February 2008 report “Choking on Bureaucracy” documented how the burdensome registration and reporting requirements and the additional authority the law gave the government to oversee and interfere with the work of NGOs undermined the right to exercise the freedom of association in Russia. The report identified how the burden on NGOs arising from the more complicated registration procedures, invasive inspection regime, and extensive reporting requirements, and government powers to warn and dissolve NGOs, amount to excessive government interference in civil society activity. In many cases documented in the report, it appeared that the authorities used their enhanced oversight authority to target activists and organizations that work on controversial issues, received foreign funding, or were associated with political opposition or dissenting views.

In April 2008 the Public Chamber Commission on the Development of Civil Society held a hearing to address complaints about the work of the Ministry of Justice in regulating NGOs. At the hearing, speakers—among them Public Chamber members—criticized the ministry’s efforts to punish and dissolve organizations. As Deputy Chair of the Commission and former member of the Russian State Duma Pyotr Shelishch noted,

At the [Ministry of Justice] there is a certain tendency: to take upon itself the role of protector of society and the government from various harmful organizations. I think that this is a dangerous tendency and that it should operate strictly within the bounds of the law, that restrict [its] authority.⁶⁴

Statistics released by the Ministry of Justice in April 2008 provide insight into government registration and oversight of NGOs in Russia’s regions.⁶⁵ The statistics on registrations, warnings, and inspections referred to in the sections below are short on case specifics, but are a useful starting point from which to understand the magnitude of the problems. Statements gathered by Human Rights Watch from 57 organizations in 10 regions across Russia also indicate that that problems are widespread and ongoing.

In some cases described below, courts were ultimately able to compel the Ministry of Justice to either register an NGO, reverse a suspension, or otherwise provided recourse for an NGO

⁶⁴ Hearing of the Public Chamber Commission on the Development of Civil Society, “NCO Inspections: Constructiveness or tententiousness?” Public Chamber, April 9, 2008.

⁶⁵ Federal Registration Service, “Information on the work of the territorial organs of Rosregistratsia in the area of registration and control of noncommercial organizations as of 01.01.2008,” https://www.rosregistr.ru/docs/reg_nko_2007.xls.

against bureaucratic arbitrariness. But it should not fall to the courts to correct such rampant arbitrariness, nor should this be so highly prevalent.

Moreover, the Ministry of Justice in many regions appears to have assumed an adversarial role toward civil society, rather than a role that supports the development of a robust and independent civil society. As Public Chamber member Oleg Zykov said at the April 2008 hearing, “[NGO] inspectors seem to be forgetting why it is they’re inspecting in the first place. And shouldn’t [the purpose be] for the development of civil society, for the development of the state?”⁶⁶ Experiences in some regions, such as Chuvashia, nevertheless point to ways the registration authorities and other government agencies can mitigate the challenges posed by the NGO law and actively aid and assist civil society organizations (see below, “In Support of Civil Society”).

Registration

Most NGOs are required to register within three months of their founding, through a process that is difficult to understand, overly burdensome, and can drag on for months.⁶⁷ The 2006 law introduced more complicated registration procedures for NCOs than had previously existed, and increased the associated financial burden: Organizations need lawyers to assist them with the complicated registration procedure. Those unable to afford qualified lawyers risk submitting flawed documents, which would be rejected outright, and as a result such groups may be forced to spend inordinate amounts of time revising and resubmitting documents and dealing with the Ministry of Justice to remedy any flaws, every time again paying the registration fee. Already registered organizations must also submit supplementary registration documents when changes within the organization occur, for example when a new director is hired, within very short time periods. The Council of Europe Expert Council on NGO Law characterizes the lack of opportunity to correct mistakes or problems in the registration documents during the process as “a clear shortfall of the [registration] procedure.”⁶⁸

Registering an NGO is considerably more time-consuming, burdensome, and costly than registering a commercial organization, an unfair burden that contravenes the Council of

⁶⁶ Hearing of the Public Chamber Commission on the Development of Civil Society, “NCO Inspections: Constructiveness or tendentiousness?” April 9, 2008.

⁶⁷ Federal Law on Public Associations, No. 82-FZ, 1995, art. 21, and Federal Law on Non-Commercial Organizations, No. 7-FZ, 1996, art. 13.1.

⁶⁸ Conference of INGOs of the Council of Europe, “First Annual Report: Conditions of Establishment of Non-Governmental Organisations,” http://www.coe.int/t/e/ngo/public/Expert_Council_NGO_Law_report_2008.pdf, para . 274.

Europe Committee of Ministers' Recommendation. The Expert Council on NGO Law has said that the "two months time period for processing [registration] applications [of NGOs in Russia] cannot be accepted as speedy and reasonable," especially in light of the five-day registration timeline for commercial organizations.⁶⁹ According to the International Center for Nonprofit Law, the law "considerably limits rights in establishing NGOs" because the grounds for denying registrations are "groundlessly broad in comparison with commercial organizations," "unspecific," and "allow [for] broad interpretation."⁷⁰ Registering an NGO is also more expensive than registering a commercial organization. One study showed that legal assistance for registering an NGO costs 40 percent more than for registering a commercial organization and takes twice as much time.⁷¹

An NGO may be denied registration for any number of loosely defined reasons, "some of [which] can be seen as not acceptable," according to the Expert Council on NGO Law.⁷² For example, if its "documents are prepared in an inappropriate manner" or if they "run counter to the Constitution and the legislation of the Russian Federation."⁷³

The hurdles erected during registration appear to be a serious challenge for many NGOs and those hoping to register an organization. Ministry of Justice statistics for 2007 indicate that more than 11,000 denials were issued by the regional NGO registration offices. In 10 regions, more than 20 percent of registrations were rejected; in St. Petersburg and the surrounding region more than 35 percent of registrations were denied.

Minor errors, major consequences

Small mistakes made in registration documents can result in exceedingly punitive consequences, such as a denial of registration and thus forfeiture of the NGO registration fee.

⁶⁹ *Ibid.*, para. 273.

⁷⁰ International Center for Nonprofit Law, "Analysis of the law, regulating the activity of noncommercial and commercial organizations in the Russian Federation," undated, http://www.lawcs.ru/doc/law/NGO_and_CO_Comparative_Analysis_RF.doc (accessed February 20, 2009).

⁷¹ Laboratory for Institutional Analysis of Economic Reforms at the State University – Higher School of Economics, Department of Applied Institutional Economics and Laboratory for Institutional Analysis at the Economic Faculty of Moscow State University, Institute for National Project "Social Contract," Institute for Civil Analysis with the support of the Levada Analytical Center, "Economic Consequences of the New Russian NGO Legislation," Powerpoint presentation, May 20, 2007, on file with Human Rights Watch.

⁷² Conference of INGOs of the Council of Europe, "First Annual Report: Conditions of Establishment of Non-Governmental Organisations," http://www.coe.int/t/e/ngo/public/Expert_Council_NGO_Law_report_2008.pdf, para. 275.

⁷³ Federal Law on Introducing Amendments to Certain Legislative Acts of the Russian Federation, No. 18-FZ, 2006, arts. 2(6) and 3(9). Under the Ministry of Justice regulation on registrations, registration documents that are not properly attached or numbered are considered inappropriately prepared, and could be cause for denial. See Order of the Ministry of Justice No. 96 on Approval of Administrative Regulations of the Ministry of Justice as Relates to its State Function to Make Decisions on Government Registration of Non-commercial Organizations, March 31, 2009, points 23 and 24.

According to analyses of rejections in the Republics of Sakha and Chuvashia, mistakes made by registration applicants in the preparation of documents and formulation of charters were common among many organizations. For example, according to the undated analysis from Sakha, applicants often forget to staple or sign applications, or neglect to note the date and location of the organization's founding congress.⁷⁴

Given their reoccurring and often minor nature, such mistakes could conceivably be remedied through enhanced public education on how to register an NGO, support from the Ministry of Justice throughout the registration process, and sample completed registration documents. The Council of Europe's Expert Council on NGO Law has advised that, considering the legal and administrative challenges posed by the registration process in Russia, the government should assist organizations seeking registration "via a specific service providing support and information on these issues, raising awareness through web pages or other tools showing filled out examples of documents."⁷⁵

With regard to registration documents, some Ministry of Justice NGO offices have interpreted "prepared in an inappropriate manner" to mean minor typos or errors in formatting.⁷⁶ When Human Rights Watch spoke to Polina Shubaeva, a representative of Tomsk-based Kulta Kup Association of Indigenous Peoples of the North in July 2008, she recounted how an affiliate had sought registration in Alexandrovsky district of Tomsk province but had been refused seven times for various reasons,⁷⁷ among them that the organization's proposed name was not in Russian. The organization was eventually able to register.

Dmitry Berezhkov, chairperson of the Executive Committee of the Russian Association of the Indigenous Peoples of the North and former president of the Ethno-ecological Information Center Sun (Lach), in Kamchatka territory, told Human Rights Watch in October 2008 that many indigenous organizations have difficulty with the registration and reporting requirements because "there isn't an understanding of how to bring together reports" and

⁷⁴ Branch of the Federal Registration Service for the Republic of Sakha, "Information on the most typical mistakes allowed by applicants when submitting documents for government registration of noncommercial organizations, serving as cause for the rejection of government registration," undated, <http://rosreg.sakha.ru/files/tiposch.doc> (accessed December 1, 2008). Branch of the Federal Registration Service for the Republic of Chuvashia, "Analysis of the mistakes made by applicants in the formation of documents presented for government registration of NCOs for the first quarter of 2008," undated, http://www.rosreg21.ru/analiz_otkazov (accessed September 29, 2008).

⁷⁵ Conference of INGOs of the Council of Europe, "First Annual Report: Conditions of Establishment of Non-Governmental Organisations," http://www.coe.int/t/e/ngo/public/Expert_Council_NGO_Law_report_2008.pdf, para. 281.

⁷⁶ In "Choking on Bureaucracy," Human Rights Watch documented the denial of reregistration of the Foundation for Ecological and Social Justice in Voronezh because of a missing header on one page of the 15-page document.

⁷⁷ Human Rights Watch interview with Polina Shubaeva, Association of Indigenous Peoples of the North "Kulta Kup" in Tomsk province, Tomsk, July 31, 2008.

registration documents, and submitting documents from rural areas is very difficult. According to Berezhkov, the Ministry of Justice did little to help organizations register and comply with the law: when an organization submits registration documents, they are often “returned without explanation, [they just say] your documents don’t conform [to the law]. Then you have to find a lawyer. When you are in a city you can go [to the Ministry of Justice] and discuss with them what doesn’t conform. In rural areas, there isn’t anyone to ask.”

Berezhkov told Human Rights Watch that through 2007 it took several community NGOs in Kamchatka around 18 months to register because documents were submitted and returned several times. Submitting documents can be costly in territories like Kamchatka because it requires travel to regional centers, which “from some districts costs 20 or 30 thousand” rubles (\$700-1,100 USD).⁷⁸

For indigenous organizations in Russia, a registration denial can have consequences far beyond the hassle and expense of repeated applications: unregistered indigenous organizations do not have the same rights to conduct traditional forms of economic activity such as fishing and reindeer breeding. Berezhkov called restrictions on access to “natural resources and territory ... the biggest problem of indigenous people in Russia.”⁷⁹ In Tomsk province unregistered indigenous organizations cannot obtain licenses for large-scale fishing, a traditional means of providing food and money for a family. Shubaeva, of Kulta Kup, told Human Rights Watch that when indigenous “people are forbidden from fishing ... they cannot live normally, they cannot feed themselves normally, they cannot carry out their traditional way of life.”⁸⁰

Other causes of registration denial

The blunt instrument of a registration denial can also be used arbitrarily and punitively to target certain civic initiatives or organizations. Because the registration process is generally opaque and the criteria are vague, it is often unclear why exactly an NGO is denied registration.

The Ministry of Justice’s Moscow province branch (MOJ Moscow) consistently resisted registering the Antifascist Union—an organization that combats discrimination and

⁷⁸ Human Rights Watch interview with Dmitry Berezhkov, chairperson of the Executive Committee of the Russian Association of the Indigenous Peoples of the North, Moscow, October 2, 2008. While in many regions documents can be submitted by mail, documents must also be notarized. Berezhkov told Human Rights Watch that in Kamchatka (a vast territory) there were no notaries in rural areas, so organizations were required to travel to the territory’s capital Petropavlovsk.

⁷⁹ Ibid.

⁸⁰ Human Rights Watch interview with Polina Shubaeva, July 31, 2008.

xenophobia through public events and educational campaigns—for three years despite court decisions and the Ministry of Justice’s own directive requiring MOJ Moscow to do so.⁸¹ Based near Moscow, the Antifascist Union was initially denied registration in 2005 because it listed its founder’s apartment as the organization’s registered address. A subsequently released MOJ Moscow informational letter confirmed that organizations had the right to use a private home as a registration address.

Yegorevsk Town Court ruled in June 2007 that the registration denial of the Antifascist Union was groundless.⁸² In response to a request for registration sent after that ruling, MOJ Moscow demanded that the NGO again submit the registration paperwork and fee, this time using new format registration forms. In a June 2008 clarification of its decision, Yegorevsk Town Court again ruled in the NGO’s favor, ordering MOJ Moscow to register the Antifascist Union based on the forms it had submitted three years prior. MOJ Moscow delayed sending confirmation that it had received a copy of the June 2008 court ruling, a move that prevented the decision from entering legal force and delayed the group’s registration. The European Court of Human Rights has ruled in other cases that such delaying tactics are a violation of article 11 of the European Convention on Human Rights.⁸³

The Antifascist Union was finally registered in February 2009, after three years of meetings, court hearings, phone calls, and visits to government offices. As the organization’s director Avelina Lobzhanidze wrote to Human Rights Watch, “[I]t got to the point where they didn’t have any more options to avoid [registering us]. We had not only a court ruling in our favor, but a clarification of that ruling where it was clearly stated that they didn’t have the right to raise any more objections and were required to [register us].”⁸⁴

⁸¹ Human Rights Watch telephone interview with Avelina Lobzhanidze, director of the Antifascist Union, November 13, 2008. Indeed, according to Russia’s human rights ombudsman, around 80 percent of complaints to the ECtHR from the Russian Federation are connected to the lack of implementation of court decisions. See Human Rights Ombudsman of the Russian Federation, “Report of the Human Rights Ombudsman of the Russian Federation for 2007,” March 14, 2008, <http://www.rg.ru/2008/03/14/doklad-dok.html> (accessed December 1, 2008), 7-6. As of January 1, 2009, the ECtHR reports 27,250 cases pending from the Russian Federation before the court. See European Court of Human Rights, “The European Court of Human Rights: Some Facts and Figures 1959 - 2009,” April 2009, <http://www.echr.coe.int/NR/rdonlyres/65172EB7-DE1C-4BB8-93B1-B28676C2C844/o/FactsAndFiguresEN.pdf> (accessed June 6, 2009), p. 4.

⁸² “Officials refuse to carry out the court decision on registering ‘Antifascist Union’” («Чиновники отказываются исполнять решение суда о регистрации „Антифашистского союза“»), *Novaya Gazeta* (Moscow), July 18, 2008, <http://www.novayagazeta.ru/news/294625.html> (accessed November 14, 2008). Yegorevsk Town Court of Moscow Province, Decision, June 6, 2007, unpublished document on file with Human Rights Watch.

⁸³ The Court has consistently held that a refusal to grant legal entity status to an association of individuals amounts to interference with the applicants’ exercise of their right to freedom of association, guaranteed by article 11 of the European Convention on Human Rights. See the cases of *Ramazanov and others v. Azerbaijan*, no. 44363/02, Judgment of 01 February 2007; *Gorzelik and Others v. Poland*, no. 44158/98, Judgment of 17 February 2004; *APEH Üldözötteinek Szövetsége and Others v. Hungary*, no. 32367/96, Judgment of 31 August 1999; and *Sidiropoulos and Others v. Greece*, Judgment of 10 July 1998, Reports 1998 IV. All judgments available at www.echr.coe.int.

⁸⁴ Human Rights Watch email correspondence with Avelina Lobzhanidze, director of the Antifascist Union, March 5, 2009.

In Tyumen, the Ministry of Justice repeatedly and arbitrarily refused to register the NGO Rainbow House, a group that protects the rights of lesbian, gay, bisexual, and transgendered (LGBT) persons, because it apparently fell foul of vague registration requirements.⁸⁵ In the denials, the authorities maintained that Rainbow House’s objectives “undermine spiritual public values” and can undermine the “security of the Russian community and state.” In a sign that the authorities intended to make use of the law’s broad wording to indefinitely deny Rainbow House’s registration, in August 2007 a correspondent for the *Kommersant* newspaper reported MOJ Tyumen employees saying they would “find new ways” to reject the NGO’s registration, even if it won a court order in its favor.⁸⁶

Rainbow House submitted a complaint to the European Court of Human Rights in September 2008, asserting that it was denied a fair trial, its freedom of association was unduly restricted, and that the denial of its registration was discriminatory.⁸⁷

The recent registration of an LGBT organization in St. Petersburg, the first in Russia of an organization that openly identifies as being LGBT since the 2006 law entered into force,⁸⁸ raises hopes that such organizations will not repeat Rainbow House’s experience.

Operating without registration

Groups that prefer to avoid the burden of reporting to the authorities or insulate themselves from the strict oversight of the Ministry of Justice registration authority may operate without registration or “legal personality.” According to the Council of Europe’s Expert Council on NGO Law, groups that do not have a legal personality enjoy the same international guarantees of freedom of association as those that do.⁸⁹ While operating without registration and thus much government oversight may appear attractive to many, it comes with significant restrictions which may prevent many organizations from functioning. Unregistered groups are extremely limited in their ability to conduct financial transactions,

⁸⁵ For an overview of the Rainbow House case, see Human Rights Watch, *Choking on Bureaucracy*, <http://www.hrw.org/en/reports/2008/02/19/choking-bureaucracy-0>, p. 34.

⁸⁶ Anna Motorina, “Tyumen sexual minorities not admitted to “Rainbow House” («Тюменские секс-меньшинства не пустили в „Радужный дом“»), *Kommersant*, August 21, 2007, <http://www.kommersant.ru/doc.aspx?DocsID=797044> (accessed April 7, 2009).

⁸⁷ Rainbow House’s complaint asserts violations of articles 6.1, 11, 13, and 14 of the European Convention on Human Rights. See Complaint for dossier No. 12200/08 (*OOO Raduznyy Dom and Others v. Russia*), unpublished document on file with Human Rights Watch.

⁸⁸ “First organization with abbreviation LGBT in its name registered in Russia” («Впервые в России зарегистрирована организация, в официальном названии которой есть аббревиатура ЛГБТ»), Human Rights Resource Center news, February 11, 2009, http://www.hrrcenter.ru/rngo/news/index.php?ELEMENT_ID=2310 (accessed June 2, 2009).

⁸⁹ Conference of INGOs of the Council of Europe, “First Annual Report: Conditions of Establishment of Non-Governmental Organisations,” http://www.coe.int/t/e/ngo/public/Expert_Council_NGO_Law_report_2008.pdf, para. 16.

work with the authorities, or conduct other activities such as publishing. The Expert Council on NGO Law has characterized some of these restrictions as inconsistent with principles derived from the freedom of expression.⁹⁰

Groups without registration cannot open a bank account and thus are unable, for the most part, to receive grant support. German Aletkin, an activist who works with conscripts and promotes the right to alternative civilian service in Kazan, told Human Rights Watch in April 2008 that he had trouble attracting grants because he was not officially registered as an NGO. Another disadvantage is the authorities' reluctance to work with private citizens, although this varies by region and department. Aletkin told Human Rights Watch that sometimes he was excluded from official meetings and events held by the local government, but if he "works with the military enlistment offices or with enlistment commissions, questions [of my registration] don't come up."⁹¹ Polina Shubaeva of Kulta Kup in Tomsk told Human Rights Watch that the authorities in Alexandrovsky district have refused to cooperate with unregistered groups on social and economic development projects.⁹²

Ministry of Justice inspections of NGOs

Numerous state agencies, ranging from the tax service to the fire safety inspectorate, may inspect NGOs to ensure compliance with government regulations. The Ministry of Justice may inspect NGOs to ensure that their work, including their financial expenditures and property management, complies with their statutory goals, and it is vested with broad powers for carrying out such inspections. Ministry of Justice inspections can be planned or unplanned, though since plans are frequently unpublished, "planned" inspections are often a surprise for the NGOs in question.⁹³ The Ministry of Justice reports that in 2007 its regional offices conducted 13,381 NGO inspections.⁹⁴

⁹⁰ The Expert Council also said that Russia's approach of only explicitly conferring certain rights to unregistered groupings "appears to be unduly restrictive and against the spirit of existing international standards." *Ibid.*, para. 263.

⁹¹ Human Rights Watch interview with German Aletkin, activist, Kazan, April 23, 2008. He also commented, though, that other activists "envied" him because he did not have to report to the authorities.

⁹² Human Rights Watch interview with Polina Shubaeva, July 31, 2008.

⁹³ According to Alexandr Stepanov, now deputy director of the Ministry of Justice's department for relations with noncommercial organizations (and formerly serving in a similar capacity at the Federal Registration Service), the Ministry of Justice and its regional branches publish NGO inspection plans so that organizations will be aware of upcoming inspections. Federal Registration Service, Main presentation points of A.V. Stepanov, chief of the department for relations with noncommercial organizations, Federal Registration Service, at a meeting with representatives from Russian nongovernmental and international organizations titled "Pressing Problems of Cooperation between a State Institution and Nongovernmental Organizations," May 30, 2007, <http://www.rosregistr.ru/index.php?menu=152000000&id=3314> (accessed October 19, 2007). As noted at the end of this chapter (see section "Problems with Transfer of NGO Oversight from Federal Registration Service"), however, not all branches of the Ministry of Justice have websites or post inspection plans.

⁹⁴ Federal Registration Service, "Information on the work of the territorial organs of Rosregistratsia in the area of registration and control of noncommercial organizations as of 01.01.2008," https://www.rosregistr.ru/docs/reg_nko_2007.xls. These

The experiences of some groups appear to confirm concerns that organizations that work on controversial issues or receive funding from abroad are targeted for inspection and dissolution. For example, For Human Rights is a federation of organizations throughout Russia that work on issues such as government corruption, children's and pensioners' rights, and tenants' rights. Vadim Postnikov, director of the For Human Rights affiliate in Tyumen, told Human Rights Watch that he suspects a February 2008 inspection of the organization was brought about by complaints it had submitted to the prosecutor alleging corruption within the office at the Registration Service in Tyumen that registers real estate transactions.⁹⁵ As described below (see "NGO dissolution and suspension"), the organization was liquidated in September 2008 at the initiative of the local branch of the Ministry of Justice.

Another organization targeted for serial inspections, as described below, was the Chechen Committee for National Salvation, a group that collects and distributes information about the human rights situation in Chechnya and Ingushetia.

Purview of inspections

When the Ministry of Justice conducts an inspection of an NGO's compliance with the law, it is unclear how it chooses which laws and regulations will fall in the inspection's purview; indeed, there seem to be few limits on its authority when conducting inspections. According to Ministry of Justice regulations, inspectors should check for compliance with all of the "legislation of the Russian Federation,"⁹⁶ but if violations are found that do not fall within the competence of the Ministry of Justice, information should be forwarded to the appropriate government body within five days.⁹⁷ Observers have noted that the Ministry of Justice has interpreted its inspection authority in the broadest possible way, sometimes inspecting for compliance with laws outside of its competence or which fall under the oversight of other government agencies. At the April 2008 hearing of the Public Chamber Commission on the Development of Civil Society, mentioned above, several speakers

statistics had not been published at the time Human Rights Watch released its February 2008 report "Choking on Bureaucracy."

⁹⁵ Human Rights Watch telephone interview with Vadim Postnikov, director of For Human Rights in Tyumen, November 12, 2008. For Human Rights accused the Registration Service of effecting the illegal transfer of a building used by a popular youth center to the benefit of a newly-formed and competing for-profit youth club. The organization had begun to submit complaints about this in 2006, and the substance of the complaint had featured in an October 2007 local newspaper article by For Human Rights. Human Rights Watch email correspondence with Vadim Postnikov, May 13, 2009.

⁹⁶ Regulation of the Department for NCO Activities, Ministry of Justice, undated, [http://www.minjust.ru/common/img/uploaded/docs/Polozhenie_o_Departamente_NKO_\(11.09.2008\).doc](http://www.minjust.ru/common/img/uploaded/docs/Polozhenie_o_Departamente_NKO_(11.09.2008).doc) (accessed June 2, 2009).

⁹⁷ Ministry of Justice Order 90, point 6.

heatedly criticized Ministry of Justice efforts to inspect, punish, and dissolve organizations based on “spontaneous” interpretations of the law.⁹⁸

One such criticism focused on how, in numerous recent cases, the Ministry of Justice has identified unlicensed “educational activity” during an inspection, and vigorously pursued claims against such organizations.⁹⁹ Ministry of Justice inspectors have interpreted “educational activity” broadly to be events such as regularly-held seminars or trainings for volunteers. This interpretation would appear to exclude many NGOs that never claim to be educational institutions from conducting activities fundamental to their missions, unless they acquire an education license. One case cited at the Public Chamber hearing was that of a scouting organization in St. Petersburg. The speaker said the Ministry of Justice claimed the organization was conducting unlicensed educational activities because it organized trainings for volunteers on how to work with “risk groups,” after which the volunteers received a certificate. A Ministry of Justice official at the hearing pointed to the word “certificate” on the document the organization gave to the volunteers, as proof that it was carrying out unlicensed “educational activity.”¹⁰⁰

In two cases identified by NGO lawyers, Ministry of Justice inspections exceeded their oversight authority by identifying alleged violations of the labor and tax codes, over which oversight authority is assigned to the Federal Labor Inspectorate and the Tax Service, respectively.¹⁰¹

The Ministry of Justice for the Republic of Buryatia revealed on its website that it planned to conduct 18 inspections of NGOs jointly with the FSB, Ministry of Internal Affairs, or both, in October and September 2008. The participation of the FSB in planned inspections, however, appears to contradict the Ministry of Justice regulation on such inspections, which stipulates

⁹⁸ Hearing of the Public Chamber Commission on the Development of Civil Society, “NCO Inspections: Constructiveness or tendentiousness?” April 9, 2008.

⁹⁹ The Law on Education states that education is a purposeful activity of training and instruction that is followed by a statement of achievement defined by the government. Law on Education, No. 3266-1, 2008, <http://www.consultant.ru/online/base/?req=doc;base=LAW;n=81109> (accessed June 2, 2009), preamble.

¹⁰⁰ Hearing of the Public Chamber Commission on the Development of Civil Society, “NCO Inspections: Constructiveness or tendentiousness?” April 9, 2008. One participant, Elena Gerasimova of the Center for Social and Labor Rights, expressed concern that under such a broad interpretation of “educational activity,” organizations that conduct seminars for expectant mothers or book discussion groups would be required to seek educational licenses.

¹⁰¹ See the cases of the Chita Human Rights Center, which was warned in 2008 following an inspection for violating the labor code, and the Ryazan affiliate of the human rights group Memorial, which was warned in 2007 for a violation of tax law, in Ahmetgaliev et al., *Nongovernmentals: A Decade of Survival*, p. 147.

that they are conducted by “federal civil servants of the Ministry of Justice” in line with the “presumption of good faith” of NGOs.¹⁰²

An analysis of the impact of the NGO law conducted by the International Center for Nonprofit Law based on a survey of NGOs confirms that the scope of inspections has “been substantially expanded” since the law was changed in 2006, and quotes NGOs as saying that the Ministry of Justice employees “conducting inspections have begun to request and try to review ‘everything.’”¹⁰³

Invasive demands

Many NGOs report that Ministry of Justice inspections not only cover compliance with a broad and unpredictable range of laws and regulations, but are also invasive and burdensome, and require that organizations spend large amounts of time complying with demands for information.

A St. Petersburg court recently rejected one sweeping Ministry of Justice demand for documents, though the decision does not set a firm precedent for future cases challenging the NGO law. In “Choking on Bureaucracy” we reported the case of Citizens’ Watch, a St. Petersburg organization that works to establish parliamentary and civic oversight over law enforcement bodies and the armed forces, which had been subject to an inspection in 2007 during which the Ministry of Justice demanded all of the organization’s outgoing correspondence. Citizens’ Watch filed suit, characterizing the Ministry of Justice’s demands as exceeding its competency and authority. On October 29, 2008, Vasileostrovsky District Court ruled that the Ministry of Justice’s demand was unlawful and unconstitutional: The court held that “the demand to review all outgoing correspondence ... contradicts the presumption of good faith” of an NGO’s work because the Ministry of Justice could in essence fish for violations, in the absence of any information about their existence.¹⁰⁴

Since we published “Choking on Bureaucracy,” Human Rights Watch has also learned of the exhaustive inspection inflicted in 2007 on Siberia AIDS Aid, an NGO in Tomsk that provides

¹⁰² Ministry of Justice Order 90, points 3-4.

¹⁰³ International Center for Nonprofit Law, “Analysis of the Impact of Recent Regulatory Reforms on Non-commercial Organizations and Public Associations in Russia,” December 2007, http://www.icnl.org/knowledge/library/download.php?file=Russia/ICNL_MTT_Report_EN.pdf (accessed May 15, 2008), p. 5.

¹⁰⁴ “Citizens’ Watch’ stands up in court for the right to private correspondence” («„Гражданский контроль“ отстоял в суде право частной переписки»), *Fontanka.ru*, October 30, 2008, <http://www.fontanka.ru/2008/10/30/039/> (accessed November 15, 2008). St. Petersburg City Court, Decision, No. 33-12016/2008, October 29, 2008, unpublished document on file with Human Rights Watch.

various types of support to HIV-positive people and educates the public about HIV/AIDS prevention. Siberia AIDS Aid director Yulia Kondinskaya told Human Rights Watch that during the Ministry of Justice inspection, all four of the organization's employees spent most of their time for two weeks complying with the inspectors' demands, which covered "absolutely everything connected with accounting, contracts, internal memorandums, business trip forms ... all of our programs, starting with the budgets and ending with the reports that we made and the materials we produced as part of those programs ... The quantity [of documents], certainly, was enormous."¹⁰⁵

Lengthy and overlapping inspections

By law, an inspection by any agency should last no longer than two months. While planned inspections are limited to one every three years, there is no limit to the number of unplanned inspections allowed.¹⁰⁶ In effect, an NGO could find itself under permanent inspection.¹⁰⁷

Between 2005 and mid-2008 the Chechen Committee for National Salvation (CCNS) was inspected by the Ministry of Justice in the Republic of Ingushetia (MO Ingushetia), fire safety authorities, the Ministry of Internal Affairs, and the prosecutor's office.¹⁰⁸ The two MO Ingushetia inspections were just months apart, in March and August 2007 (the second being unplanned—see below).

The Fire Inspectorate inspected the organization's rented office space in May 2007, and levied fines against it for alleged violations. The Arbitration Court for the Republic of Ingushetia in June 2007 rejected the fines, finding the landlord responsible for maintenance. From April 15 to May 15, 2008, the NGO was inspected by the Ministry of Internal Affairs Organized Crime Department in search of inappropriate uses of funds.¹⁰⁹ And through 2005 the prosecutor's office inspected the organization on suspicion of extremism, closing the case only in September 2008.¹¹⁰ Some of the inspections resulted in warnings, but none triggered any criminal or substantive administration charges against the organization.

¹⁰⁵ Human Rights Watch interview with Yulia Kondinskaya, Tomsk, July 31, 2008.

¹⁰⁶ Ministry of Justice Order 90, point 14.

¹⁰⁷ See Human Rights Watch, *Choking on Bureaucracy*, <http://www.hrw.org/en/reports/2008/02/19/choking-bureaucracy-o>, p. 36.

¹⁰⁸ "CCNS claims continued persecution by the authorities" («ЧКНС заявляет о продолжительных преследованиях со стороны властей»), *Kavkazsky Uzel*, February 27, 2008, <http://www.kavkaz-uzel.ru/newstext/news/id/1208426.html> (accessed November 25, 2008).

¹⁰⁹ Human Rights Watch telephone interview with Ruslan Badalov, director of the Chechen Committee for National Salvation, November 25, 2008.

¹¹⁰ *Ibid.* The prosecutor's investigation was at the behest of the FSB.

Arbitrary grounds for unplanned inspections

According to administrative regulations, the Ministry of Justice may conduct unplanned inspections based on information that it receives from other government agencies and private citizens.¹¹¹ For example, the second, unplanned inspection of the Chechen Committee for National Salvation by MOJ Ingushetia in August 2007 was reportedly prompted by a communication from the Ingushetia branch of the Federal Security Service. In its communication the FSB alleged that CCNS was “collecting negative information” about Ingushetia and Russia, possibly for the use of a foreign government or to be published on the opposition website *Ingushetiya.ru*.¹¹² The resultant warning and ensuing legal challenge are discussed below.

Human Rights Watch learned in a meeting in September 2008 with the Ministry of Justice in Chuvashia that the Ministry of Justice is obliged to inspect organizations about which it receives information or complaints, regardless of whether they seem well-founded and provided only that the complaint was not submitted anonymously.¹¹³

An obligation to inspect based on potentially unverifiable complaints is open to deliberate misuse with the aim of imposing arbitrary or punitive inspections.¹¹⁴

Warnings

Inspections often result in a warning to the organization, often for minor administrative violations. Warnings are also issued for violations of an organization’s founding goals; an organization can be dissolved for receiving two such warnings or “systematically” undertaking an activity that is counter to its founding goals.¹¹⁵ The Ministry of Justice Statistics for 2007 indicate that its regional offices issued 45,920 warnings for that year.

¹¹¹ Ministry of Justice Order 90, point 22.

¹¹² Human Rights in Russia, “FSB and Rosregistratsia Ingushetia - against a civil society organization,” February 28, 2008, <http://www.hro1.org/print/1341> (accessed October 25, 2008). “ChKNS: The initiators of the unplanned inspection of the organization turn out to be the FSB in Ingushetia” («ЧКНС: инициатором внеплановой проверки организации оказалось УФСБ по Ингушетии»), *Kavkazsky Uzel*, February 28, 2008, <http://www.kavkaz-uzel.ru/printnews/news/id/1208496.html> (accessed November 24, 2008).

¹¹³ Human Rights Watch interview with Rumia Bagaudinova and Anatoly Sofronov, Cheboksary, September 9, 2008.

¹¹⁴ The regulations also allow “other information” that is “corroborated by documents” to serve as cause for an inspection. Ministry of Justice Order 90, point 22.

¹¹⁵ Law on Public Associations, art. 38; Law on Noncommercial Organizations, art. 32; Dissolution of legal entities is also regulated by article 61 of the Civil Code. Article 61 also allows an NGO to be dissolved for “systematically” undertaking an activity that is counter to its founding goals. Civil Code of the Russian Federation, Num. 51-FZ of 11/30/1994, <http://www.consultant.ru/popular/gkrf1/> (accessed June 11, 2009), art. 61.

“Choking on Bureaucracy” described several cases in which Ministry of Justice inspectors issued warnings that turned out to be groundless or were based on an arbitrary interpretation of an organization’s documents.¹¹⁶

In the case of CCNS, described above, MOJ Ingushetia issued a warning to the organization for not presenting documents during the August 2007 inspection.¹¹⁷ Ruslan Badalov, CCNS director, told Human Rights Watch that according to the inspection report issued by MOJ Ingushetia, CCNS resisted the inspection by not submitting the required documents.¹¹⁸ In a challenge to the warning, CCNS disputed the claim that it resisted the inspection, claiming that MOJ Ingushetia had turned up without warning on occasions when the office was closed or the accountant was on vacation.¹¹⁹ CCNS moreover claimed that MOJ Ingushetia violated inspection regulations by not notifying the organization of the inspection adequately ahead of time, and by not having sufficient grounds for conducting the inspection.¹²⁰ The warning and inspection report issued by MOJ Ingushetia were eventually ruled unlawful on appeal by Nazran District Court on September 12, 2008, a ruling that was appealed by MOJ Ingushetia, but was confirmed by the Supreme Court of the Republic of Ingushetia on January 22, 2009.¹²¹

Although CCNS and some others have succeeded in appealing Ministry of Justice warnings and other decisions, court proceedings tend to be time-consuming and challenging, and not all groups have resources, financial or human, that would allow them to endure lengthy court cases. Moreover, as noted above, the actions by executive structures should not become so arbitrary as to require recourse through the courts.

¹¹⁶ For example, the Ministry of Justice in St. Petersburg interpreted grant support to Citizens’ Watch as commercial funding, because the organization had undertaken to acknowledge in its publications the financial support received from the consulates of the Netherlands and the United Kingdom. See Human Rights Watch, *Choking on Bureaucracy* <http://www.hrw.org/en/reports/2008/02/19/choking-bureaucracy-0>, chapter IV, section on Warnings.

¹¹⁷ “When there aren’t lawful grounds, they turn to illegal actions. Or about how they want to liquidate ‘CCNS,’” Chechen Committee for National Salvation announcement, December 14, 2007, <http://www.savechechny.narod.ru/zajav/zajav159.htm> (accessed November 21, 2008).

¹¹⁸ Human Rights Watch email correspondence with Ruslan Badalov, March 21, and telephone interview with Badalov, November 25, 2008.

¹¹⁹ Complaint on the challenge of illegal actions, Chechen Committee for National Salvation, December 25, 2007, unpublished document on file with Human Rights Watch; and email communication from Ruslan Badalov to Human Rights Watch, March 16, 2009.

¹²⁰ At the time, Ministry of Justice Order 222 was in force and dictated the procedure for carrying out inspections. Ministry of Justice Order 222, July 11, 2006, point 16.

¹²¹ “In Ingushetia court meets CCNS’s suit against the registration service,” («В Ингушетии суд удовлетворил иск ЧКНС к регистрационной службе»), *Kavkazsky Uzel*, September 16, 2008, <http://www.kavkaz-uzel.ru/newstext/news/id/1229033.html> (accessed December 4, 2008).

Annual reporting

The 2006 NGO law introduced a new reporting system for all NGOs, obliging them to detail annually their activities, the composition of their governing bodies, as well as financial expenditures, foreign funding, and the use of other resources.¹²² Failure to submit annual reports can result in an organization's dissolution. In "Choking on Bureaucracy" we noted Ministry of Justice data that as of September 1, 2007, only 36 percent of the noncommercial organizations registered with the ministry had submitted their annual reports (with less than 20 percent having submitted reports by the due date, April 15, 2007).¹²³

In the past, the authorities have justified the requirement that NGOs report on foreign funding to the Ministry of Justice by referring to the need to oversee the influx of foreign money into the country and to prevent it from being used to interfere in Russian domestic affairs.¹²⁴ However, even before the more extensive reporting requirements, organizations were required to submit information on foreign funding to the tax inspectorate.¹²⁵

As things now stand, NGOs are required to submit the same information to several government agencies. Pavel Chikov of the lawyers' organization AGORA complained to Human Rights Watch in November 2008 that, in addition to being redundant and inconsistent with international standards, the current system of repeatedly requiring reporting on the same information provides the authorities with a formal legal basis for harassing and hindering NGOs.¹²⁶ AGORA has proposed a "single window" principle, whereby NGOs will be required to submit annual financial and other information to the

¹²² Foreign organizations must also file quarterly activity reports, and annual reports projecting future work.

¹²³ Human Rights Watch, *Choking on Bureaucracy*, <http://www.hrw.org/en/reports/2008/02/19/choking-bureaucracy-o>, pp. 43-44, quoting Andrey Sharov and Mikhail Falaleev, "Amnesty Year. Registration of dacha property rights will be further simplified" («Год амнистии. Оформление в собственность дачных участков будет еще более упрощено»), interview with Sergei Vasiliev, director of the Federal Registration Service, *Rossiiskaia Gazeta* (Moscow), September 12, 2007, <http://www.rg.ru/2007/09/12/amnistiya.html> (accessed October 22, 2007).

¹²⁴ Boris Yamshanov, "Registration without Rejections. New Head of Rosregistration on Dacha Amnesty, Lines, Lawyers, Religious and noncommercial organizations" («Регистрация без брака. Новый глава Росрегистрации - о дачной амнистии, очередях, адвокатах, религиозных и некоммерческих организациях»), interview with Sergei Vasiliev, *Rossiiskaia Gazeta*, May 25, 2007, <http://www.rg.ru/2007/05/25/vasiliev.html> (accessed October 1, 2007). See also Medvedev's statements quoted in Chapter III of this report, "A Hostile Environment," subsection "Taxes, including wider taxation of foreign funding."

¹²⁵ Human Rights Watch interview with Olga Gnezdilova, legal advisor, Interregional Human Rights Group – Voronezh/Chernozemie, Voronezh, October 2, 2007.

¹²⁶ Human Rights Watch email correspondence with Pavel Chikov, chair of lawyers group AGORA, November 9, 2008.

government once only.¹²⁷ Another proposal that enjoys wide support among NGOs is for submitting reports over the internet.¹²⁸

Russian activists have criticized the authorities for failing to make widely and easily available information about reporting requirements, the lack of clear instructions as to how to fill in new reporting forms, and the lack of consultation centers in the regions. In “Choking on Bureaucracy” Human Rights Watch found that among leading human rights groups it took staff two-to-three weeks to prepare the annual report.¹²⁹ Yulia Kondinskaya, of Siberia AIDS Aid in Tomsk, told Human Rights Watch in July 2008 that even though her organization must satisfy strict reporting standards for the grants it receives and already reports regularly to the tax inspectorate, she and her accountant spent two weeks preparing their annual report for the Ministry of Justice. Considering the time she also spent tied up with the 2007 Ministry of Justice inspection of the organization, described above, Kondinskaya spent at least 10 percent of her time over the year preparing documents for the authorities.¹³⁰

NGO dissolution and suspension

Under the 2006 NGO law, repeated failure to submit timely reports and other information to the Ministry of Justice can lead to an organization’s dissolution.¹³¹ There is a consensus among NGO activists and officials that a significant number of NGOs that had been registered in Russia have long since ceased operations but failed to notify the authorities about the termination of their work. As we note in “Choking on Bureaucracy,” the Ministry of Justice told Human Rights Watch in February 2008 that courts had found 5,390 organizations effectively not functioning as of January 1, 2008, and had liquidated them or excluded them from the registry.¹³²

¹²⁷ “Organization of refugees from Vladimir filed a complaint with the European Court of Human Rights” («Организация беженцев из Владимира подала жалобу в Европейский суд»), Open Information Agency, October 22, 2008, <http://www.openinform.ru/news/pursuit/22.10.2008/10031> (accessed October 23, 2008).

¹²⁸ “Hearing of the Public Chamber Commission on the Development of Philanthropy and the Enhancement of Law on NCOs,” Moscow, October 2008. See also “The Ministry of Justice is prepared to optimize the NCO reporting system” («Минюст готовится оптимизировать систему отчетности НКО»), *NKO Zakon*, February 27, 2009, <http://nkozakon.ru/news/1816/> (accessed April 27, 2009), reporting remarks by Sergey Milushkin, director of the Department for NGOs at the Ministry of Justice.

¹²⁹ See Human Rights Watch, *Choking on Bureaucracy*, <http://www.hrw.org/en/reports/2008/02/19/choking-bureaucracy-o>, pp. 44-45.

¹³⁰ Human Rights Watch interview with Yulia Kondinskaya, July 31, 2008.

¹³¹ Federal law on Introducing Amendments to Certain Legislative Acts of the Russian Federation, No. 18-FZ, 2006, art. 3(10).

¹³² Written answer provided during Human Rights Watch interview with Alexandr Stepanov, chief of the department for relations with noncommercial organizations, Federal Registration Service (and now deputy director of the Ministry of Justice department for relations with noncommercial organizations), February 13, 2008, on file with Human Rights Watch.

However, the Ministry of Justice has also sought to dissolve NGOs that are active, and for minor violations of the law, even though the Council of Europe has characterized dissolution as “the ultimate penalty” to “be used only [as] a last resort.”¹³³ Court rulings have not consistently held the line against Ministry of Justice moves to dissolve NGOs.

In “Choking on Bureacracy” we reported the apparently targeted inspections of the St. Petersburg NGO Center for Enlightenment and Research Programs in 2007 because of its foreign funding.¹³⁴ In researching this follow-up report we identified another case from 2007 in which a regional Ministry of Justice branch, in the Republic of Buryatia (MOJ Buryatia), pursued an NGO’s dissolution because of foreign funding. MOJ Buryatia sought the dissolution of the Republican Human Rights Center for not reporting on its activities and money it received from a foreign foundation, but the NGO’s director, Yevgeny Kislov, told Human Rights Watch that he thought the authorities were pursuing the dissolution because the organization had received foreign funding per se.¹³⁵ He also noted that around the same time as MOJ Buryatia filed suit in May 2007, an article seeking to discredit the Republican Human Rights Center appeared in a local newspaper.¹³⁶

MOJ Buryatia’s lawsuit argued that the Republican Human Rights Center had not reported on a grant it had received from the Netherlands, although according to Kislov the grant did not fall under the new reporting requirements of the 2006 NGO Law because it had been received and spent before they entered force in April 2006.¹³⁷ MOJ Buryatia also claimed that the organization did not report on its activities in previous years, even though Kislov presented receipts showing that the reports had been submitted for 2004-06. In hearings on the case, a judge from Zheleznodorozhny District Court in Ulan-Ude suggested that the organization resubmit the documents demanded by MOJ Buryatia using the new format forms now in use. The Republican Human Rights Center acquiesced; however, according to Kislov when the organization tried several times to submit the forms, MOJ Buryatia would not

¹³³ Council of Europe, Explanatory memorandum to the Fundamental Principles on the Status of Non-governmental Organisations in Europe, November 13, 2002, http://www.coe.int/t/e/legal_affairs/legal_co-operation/civil_society/basic_texts/Fundamental%20Principles%20E.asp (accessed November 27, 2008).

¹³⁴ Human Rights Watch, *Choking on Bureaucracy*, <http://www.hrw.org/en/reports/2008/02/19/choking-bureaucracy-0>, pp. 42-43.

¹³⁵ Human Rights Watch telephone interview with Yevgeny Kislov, director of Republican Human Rights Center in Chita, November 13, 2008.

¹³⁶ The article alleges that the Republican Human Rights Center sought grants to create a negative impression of Russia in the West. Olga Pavlova, “Lawyer, show your face!” *Pravda Buryatiya* (Ulan Ude), June 26, 2008.

¹³⁷ Human Rights Watch telephone interview with Yevgeny Kislov, November 13, 2008.

accept them.¹³⁸ Soon thereafter, Zheleznodorozhniy District Court held a hearing in Kislov's absence, and ordered the organization dissolved.¹³⁹ In September 2007 the Supreme Court of Buryatia upheld the lower court's decision. The NGO has submitted a complaint to the European Court of Human Rights.¹⁴⁰

In March 2008 the Supreme Court of Russia rejected the Ministry of Justice's efforts to dissolve the Samara branch of the voters' rights group *Golos*.¹⁴¹ In its ruling the Supreme Court affirmed that dissolution for a single violation of the NGO law is not permissible, and established that dissolution for repeated violations, as provided for in the NGO law, is permissible only when it is "necessary for the protection of the rights and legal interests of others."¹⁴²

The Ministry of Justice inspected *Golos* Samara in September 2007, during the run-up to the 2007 State Duma elections, and reported that the NGO had committed "gross violations." Many of these violations, however, were either based on questionable interpretations of the law or extremely minor and with no apparent impact on the rights of others.¹⁴³

In its ruling on the case, the Supreme Court refused to liquidate *Golos* Samara, agreeing with a lower court that a "legal basis [for the dissolution of *Golos* Samara] ... does not exist." The ruling stated that that sanctions employed should be "consistent with legal norms of accountability and be proportionate with the violations," and that dissolution is not allowable for "only one formal violation of the law."¹⁴⁴

¹³⁸ Ibid. Kislov told Human Rights Watch that the Ministry of Justice refused to accept the documents three times and that they were finally sent by post. The first time, they were rejected because, he said, the ministry employee had been instructed not to accept them. The second time, the appropriate employee was not present, so the documents could not be turned in. The third time, the ministry would not accept them because they were allegedly inappropriately prepared and not sent by registered mail. Human Rights Watch email correspondence with Yevgeny Kislov, April 12, 2009.

¹³⁹ According to Kislov, he was away on business, and the court refused to reschedule the hearing.

¹⁴⁰ Human Rights Watch email correspondence with Yevgeny Kislov, November 19, 2008. See also "Republican human rights center of Buryatia appeals to the European Court of Human Rights" («Республиканский правозащитный центр Бурятии обратился в Европейский суд по правам человека»), Open Information Agency, February 21, 2008, <http://www.openinform.ru/news/pursuit/21.02.2008/8215> (accessed November 10, 2008).

¹⁴¹ *Golos* translates as both "vote" and "voice," so has been left in the original Russian here.

¹⁴² High Court of the Russian Federation, Decision on case No. 46-Go8-3, March 4, 2008, http://www.supcourt.ru/stor_text.php?id=20248831 (accessed October 14, 2008).

¹⁴³ For more detail on the actions taken against Kuzmina and the *Golos* affiliates, see Amnesty International, "Russia: Freedom curtailed in the Russian Federation," AI Index: EUR 46/008/2008, February 26, 2008, <http://www.amnesty.org/en/library/asset/EUR46/008/2008/en/EUR460082008en.html>, (accessed June 2, 2009).

¹⁴⁴ High Court of the Russian Federation, Decision on case No. 46-Go8-3, March 4, 2008, http://www.supcourt.ru/stor_text.php?id=20248831.

The ruling on the *Go/os* case, while important, has not deterred Ministry of Justice branches in other parts of Russia from continuing to seek the dissolution of NGOs for minor violations. In the cases discussed below, court challenges to dissolution petitions have had mixed results.

The vehemence with which the authorities in Chita sought the dissolution of the NGO Great Source (*Veliki Istok*), prompted a federal prosecutor trying the case before the Supreme Court in Moscow to ask the organization’s lawyer, “How could you have possibly annoyed the Chita prosecutor so much, that he had to sue for dissolution of the organization?”¹⁴⁵ Great Source organizes bard music events in Chita and neighboring regions of Siberia. It has also on occasion organized demonstrations critical of local policies. The criticism has drawn a swift reaction from the authorities, who have variously accused Great Source of extremism, fined it for minor administrative violations, and sought to liquidate the organization. Konstantin Shlyamov, director of Great Source, told Human Rights Watch that the administration has sought “all sorts of reasons to avoid giving us the opportunity to express our opinion.”¹⁴⁶

On June 2, 2008, Great Source sent notification to the authorities that it was going to hold a demonstration three days later to protest the inaction of the authorities in addressing illegal deforestation and inter-ethnic tension—the demonstrators maintain that the authorities’ failure to stop illegal logging, allegedly carried out by criminal gangs, led to a series of violent conflicts in 2006 in the village of Kharagun between angry local residents and the alleged crime gangs, who are Azeri.¹⁴⁷ In its written response, the administration dismissed the goal of the protest as “unmotivated,” warned that it could “foment interethnic conflict” (a clear reference to Russia’s broad and oft abused anti-extremism laws), and stated that organizing protests was not provided for in Great Source’s charter. The administration “invited” the organization to rescind the notification, which it did not do.¹⁴⁸

¹⁴⁵ “In the High Court of Russia the prosecutor from the Baikal region lost to human rights defenders” («В Верховном суде России прокурор Забайкалья проиграл процесс правозащитникам»), Open Information Agency, October 21, 2008, <http://www.openinform.ru/news/pursuit/21.10.2008/10021> (accessed October 21, 2008).

¹⁴⁶ Human Rights Watch interview with Konstantin Shlyamov, director of Great Source, Chita, August 4, 2008.

¹⁴⁷ For the year 2006, the prosecutor of Chita province (now part of the Baikal territory), reported having prosecuted 74 of the 1,271 cases of illegal felling that had been identified. See “We’re not afraid of work” («Работы Мы Не Боимся»), interview with Chita province prosecutor V. Falileev, *Zabaykalsiy Rabochiy* (Chita), January 12, 2007, <http://www.prokuratura.chita.ru/press-service/?id=5> (accessed June 2, 2009). See also Olga Aldonina, “Prosecutor of the Baikal region seeks liquidation of the bard association in a case on extremism” («Прокурор Забайкалья добивается ликвидации бардовского объединения по делу об экстремизме»), RIA Novosti, July 28, 2008, <http://sibir.rian.ru/incidents/20080728/81693194.html> (accessed October 13, 2008).

¹⁴⁸ Human Rights Watch interview with Konstantin Shlyamov, August 4, 2008. Shlyamov showed Human Rights Watch the letter from the administration during the interview.

Following the demonstration, which proceeded peacefully, the prosecutor for Baikal territory filed suit on June 24 to dissolve Great Source. In a statement on the case, entitled “The Prosecutor Puts a Stop to Extremist Activity,” the prosecutor maintained that Great Source was forbidden from organizing demonstrations that express “disagreement with the actions of state organs and local self government in the area of inter-ethnic relations.” No accusation or evidence of extremist activity is identified in the statement, despite its title.¹⁴⁹

On August 27 Chita Province Court refused to dissolve Great Source, ruling that in staging the demonstration the organization had indeed operated within its charter and federal law, and that the other violations by the organization (such as using a loudspeaker at the demonstration) were not grounds for dissolution. The Supreme Court of Russia affirmed the lower court’s decision on October 21, 2008.¹⁵⁰

Beginning in April 2008 the Tyumen regional branch of the NGO For Human Rights was targeted for dissolution apparently because of its criticism of the local authorities.¹⁵¹ In petitioning to liquidate For Human Rights, MOJ Tyumen said a March 2008 inspection had identified several violations, including that the organization was not properly founded, was improperly using the For Human Rights logo, violated its charter, and violated the tax code.¹⁵² According to For Human Rights Tyumen director Vadim Postnikov, his organization was not given an opportunity to correct or contest any violations because it was not presented with an inspection report, which is supposed to list any violations and how they can be remedied, as required by Ministry of Justice regulations.¹⁵³

MOJ Tyumen filed suit against For Human Rights in April 2008 seeking its dissolution, and on September 10 Tyumen Province Court ruled in favor of MOJ Tyumen,¹⁵⁴ a ruling that was

¹⁴⁹ “The Prosecutor Puts a Stop to Extremist Activity,” («Прокуратура дает заслон экстремисткой деятельности») Prosecutor of Baikal Territory news, June 28, 2008, <http://www.prokuratura.chita.ru/news/?id=734> (accessed October 13, 2008).

¹⁵⁰ High Court of the Russian Federation, Decision on case No. 72-Go8-11, October 21, 2008, http://www.supcourt.ru/arxiv_out/TEXT.PHP?id_text=121972 (accessed November 18, 2008).

¹⁵¹ “Tyumen UFRS is trying to liquidate NCO” («Тюменское УФРС пытается ликвидировать НКО»), *Granty i Konkursy*, May 20, 2008, http://infogrant.ru/fulldoc_sr.dws?dui=39281 (accessed April 21, 2009). At the time, six other regional branches of For Human Rights had already been closed by the authorities, according to the federation’s director. *Ibid.*

¹⁵² Lawsuit on the liquidation of a public association and exclusion from the government registry of legal personalities, Branch of the Federal Registration Service for Tyumen Province, Khanty-Mansiysk and Yamalo-Nenets Autonomous Okrugs, copy of unpublished document provided by Vadim Postnikov and on file with Human Rights Watch.

¹⁵³ Human Rights Watch telephone interview with Vadim Postnikov, November 12, 2008. At the time Ministry of Justice Regulation 222 was in force. Ministry of Justice Regulation 222, art. 24. Regulations currently in force have similar requirements. See Ministry of Justice Order 90, point 54.

¹⁵⁴ Human Rights Watch telephone interview with Vadim Postnikov, November 12, 2008.

confirmed one month later by the Supreme Court.¹⁵⁵ Postnikov told Human Rights Watch that he intends to appeal to the European Court of Human Rights. Highlighting a problem many organizations face when challenging legal action against them, Vadim Postnikov said, “We’ve got time, but we don’t have the human resources” to defend ourselves.¹⁵⁶

In June 2007 two NGOs in Vladimir learned, second-hand, that they had been declared non-functioning by the Ministry of Justice branch for Vladimir province (MOJ Vladimir).¹⁵⁷ The NGOs are the Children’s Ballet Theater, which runs a ballet troupe and classes for local youth, and Assistance (*Sodeistvie*), which provides support to migrants in Vladimir province; director of both is Valery Madyarov, assisted by his wife Nina. The Madyarovs successfully appealed to court to vacate the dissolution decisions regarding both organizations. MOJ Vladimir again filed suit seeking dissolution, but in separate district courts for the two NGOs, where it argued that each organization had repeatedly broken the law by operating at an address that differs from its legally registered addresses, and had failed to submit annual reports as required by the NGO law (Valery Madyarov told Human Rights Watch that during the district court hearing of Assistance’s case MOJ Vladimir changed its petition for a declaration that the organization was defunct (under article 29 of the NGO law) to a petition for the organization’s dissolution (under article 44), after it became clear that the organization was functioning and could not be closed under article 29).¹⁵⁸

In the court proceedings regarding the Children’s Ballet Theatre, Oktyabrsky District Court in July 2007 ruled in the NGO’s favor. MOJ Vladimir, undeterred, appealed to the Vladimir Province Court, which returned the case to the lower court, which again found for the NGO. A second MOJ Vladimir appeal produced the same outcome.¹⁵⁹ When MOJ Vladimir again appealed, this time Vladimir Province Court on May 13, 2008, confirmed the lower court’s decision that the identified violations were not grounds for dissolution, as they were not of a gross nature, as the law requires for dissolution.¹⁶⁰

¹⁵⁵ Human Rights Watch email correspondence with Vadim Postnikov, November 13, 2008.

¹⁵⁶ Human Rights Watch telephone interview with Vadim Postnikov, November 12, 2008.

¹⁵⁷ Human Rights Watch interview with Valery Madyarov, director of Childrens’ Ballet Theater and Assistance, and Nina Madyarova, Vladimir, June 2, 2008. In court proceedings in June 2007 a bailiff produced a copy of a court summons addressed to Madyarov, which the latter had not received, but which purportedly had been sent to an address that had received mail without problems before. Madyarov contends that MOJ Vladimir made only minimal effort to contact his two NGOs about the dissolution proceedings. *Ibid.*

¹⁵⁸ *Ibid.*

¹⁵⁹ Oktyabrsky District Court of Vladimir, Decision on case No. 2-703/08 (Childrens’ Ballet Theater), March 25, 2008, reproduced at http://www.openinform.ru/fs/j_photos/openinform_125.pdf (accessed December 4, 2008).

¹⁶⁰ “Court doesn’t allow Rosregistratsia to close the Childrens’ Ballet Theater (Vladimir)” («Суд не позволил Росрегистрации закрыть Детский театр балета (Владимир)»), Regnum, May 13, 2008, reproduced at <http://www.rambler.ru/news/russia/o/12728558.html> (accessed May 30, 2008).

Assistance was not so lucky. On December 11, 2007, Leninsky District Court ruled to liquidate Assistance, a decision that was confirmed on appeal by the Vladimir Province Court on February 4, 2008.¹⁶¹ During the proceedings Valery Madyarov acknowledged that Assistance had not submitted reports to MOJ Vladimir for several years, but claimed that it had in March 2007, and had all along submitted regular reports to the tax and pension authorities.¹⁶² Assistance appealed the province court's decision to the Supreme Court of Russia, which on April 22, 2008, ruled in favor of the Ministry of Justice dissolving the organization, finding that the violations could not be remedied.¹⁶³ Assistance has appealed the case to the European Court of Human Rights, arguing that the organization had already fulfilled its obligation to report to the government when it submitted nearly identical information to the tax authorities.¹⁶⁴

Madyarov said he believed the Ministry of Justice's efforts to dissolve the NGOs derived from a need to demonstrate its effectiveness to the leadership in Moscow. Human Rights Watch cannot assess this evaluation. However, it is worth noting that more than half of the indicators that the Ministry of Justice published on the work of its regional NGO departments in 2007 measure punitive actions taken against NGOs (such as issuing warnings or seeking dissolutions) and that in another report issued in April 2008 the ministry "forecasts" 11,000 denials of registration of public associations (one legal form of NGO in Russia), for the years 2009-11.¹⁶⁵

In Support of Civil Society

Human Rights Watch in this report has documented instances in which much energy and resources are devoted by the Ministry of Justice to punishing organizations, and by NGOs to defending themselves in the face of claims of violations. However NGOs in some regions reported positive, productive relations between the relevant Ministry of Justice branch and the NGOs that it is charged with registering and overseeing.

¹⁶¹ Vladimir Province Court, Decision on case No. 3 – 4/2008 (*Sodeistvie*), February 4, 2008, reproduced at http://www.openinform.ru/fs/j_photos/openinform_118.pdf (accessed December 4, 2008).

¹⁶² *Ibid.*

¹⁶³ High Court of the Russian Federation, Decision on case No. 86-Go8-7 (*Sodeistvie*), April 22, 2008, http://www.supcourt.ru/stor_text.php?id=20391560 (accessed November 18, 2008).

¹⁶⁴ "Organization of refugees from Vladimir filed a complaint with the European Court of Human Rights," Open Information Agency, <http://www.openinform.ru/news/pursuit/22.10.2008/10031>.

¹⁶⁵ Ministry of Justice, "Report on the results and principal areas of work of the Ministry of Justice for 2009 – 2011," April 17, 2008, [http://www.minjust.ru/common/img/uploaded/docs/Doklad_\(pervaya_chast\).doc](http://www.minjust.ru/common/img/uploaded/docs/Doklad_(pervaya_chast).doc) (accessed May 14, 2009), p. 11.

The Ministry of Justice branch in the Chuvash Republic (MOJ Chuvashia)—although apparently not immune to political influence—has been praised by some observers for its oversight philosophy, efforts to cooperate closely with NGOs, and openness to the public. Aleksei Glukhov, of the human rights NGO Shield and Sword, characterized the working philosophy of MOJ Chuvashia as “strict yet fair” because, for example, “inspections go in accordance with the law.”¹⁶⁶

Representatives of MOJ Chuvashia described to Human Rights Watch how they work proactively and closely with the Tax Inspectorate to ensure that NGOs that are operating are not liquidated. For example, sometimes NGOs neglect to submit quarterly reports to the Tax Inspectorate or to pay taxes. The MOJ Chuvashia representatives told us that when it comes to their attention that the tax service plans on liquidating an organization for such violations, they check that organization in their own database to see whether the NGO submitted its yearly report to the Ministry of Justice. If the NGO appears to still be operational, “we write them a letter about the prospective [dissolution] and suggest that they visit the [Tax Inspectorate] and tell them about their work.”¹⁶⁷

NGO managers in Chuvashia and Khabarovsk praised the Ministry of Justice branches in these regions for their efforts to assist NGOs in preparing and submitting registration documents. Aleksei Glukhov told Human Rights Watch how MOJ Chuvashia was accessible to people who have questions about registration requirements, and forthcoming with advice: When Shield and Sword was seeking registration, MOJ Chuvashia consulted with the NGO on preparing the registration documents, and worked with it to choose a name that would not be rejected.¹⁶⁸ According to Valentina Kudryashova of Green House, an NGO in Khabarovsk that has assisted many NGOs in registering, the Ministry of Justice branch there made great efforts to help register NGOs from towns located far away from the city, comments that were echoed by Natalya Volgusheva of Our Rights, another Khabarovsk NGO.¹⁶⁹ Kudryashova said they “make an effort so that people have as few problems as possible” and to avoid registration denials, by for example, conducting extensive consultations over the phone and allowing registration materials to be sent by post rather than presented in person.

¹⁶⁶ Human Rights Watch interview with Aleksei Glukhov, director of Shield and Sword, Cheboksary, September 9, 2008.

¹⁶⁷ Human Rights Watch interview with Rumia Bagaudinova and Anatoly Sofronov, Cheboksary, September 9, 2008.

¹⁶⁸ Human Rights Watch interview with Aleksei Glukhov, September 9, 2008.

¹⁶⁹ Human Rights Watch interviews with Valentina Kudryashova, public relations manager at Green House, Khabarovsk, September 24, and Natalya Volgusheva, public relations manager at Our Rights, Khabarovsk, September 22, 2008.

MOJ Chuvashia also has an accessible and informative website that prominently displays the branch's contact information and Frequently Asked Questions, and includes comprehensive information on registering NGOs, submitting reports, and other legal matters.

Problems with Transfer of NGO Oversight from Federal Registration Service

As noted at the beginning of this chapter, a May 12, 2008 presidential decree transferred NGO regulatory functions from the Federal Registration Service to the Ministry of Justice. The transfer of authority was unexpected and implemented haphazardly at the national and regional levels, creating what one NGO analyst called “legal chaos.”¹⁷⁰ The ministry and Registration Service were apparently caught by surprise by the reorganization, and did little to publicize this important change of authority—a press release about it was posted on the ministry's website only 10 days after the change.¹⁷¹ When the ministry finally posted a section about its NGO-related activity months later, the posting said nothing about the transfer (it noted only the Federal List of Extremist Materials and lists of organizations forbidden because of extremist activity).¹⁷²

In some regions, reports indicate that, for months after the transfer, Registration Service branches continued registering, inspecting, seeking dissolution, and conducting other activities, even though they had been deprived of their legal authority to do so.¹⁷³ Former Registration Service managers in Chuvashia told Human Rights Watch that they were unaware that the Registration Service had lost NGO oversight authority until after the fact.¹⁷⁴

In many regions where there had been Federal Registration Service branches, the Ministry of Justice did not have departments at the time of the transfer, leaving NGOs wondering where to submit registration and other documents (some of which by law must be submitted within

¹⁷⁰ Human Rights in Russia, “Rosregistratsia in confusion,” May 16, 2008, <http://hro1.org/node/2200> (accessed October 30, 2008).

¹⁷¹ “The Ministry of Justice advises on receiving visitors and documents on NGO issues,” Ministry of Justice news, May 23, 2008, <http://www.minjust.ru/ru/index.php?id4=55> (accessed May 28, 2008).

¹⁷² Human Rights Watch visit to <http://www.minjust.ru/ru/activity/nko/>, August 21, 2008.

¹⁷³ One journalist in Moscow set out to find out what office was operating in Moscow, and surveyed several events in other regions. See Kira Vasileva, “Hidden Office. For the third week noncommercial organizations can't find their regulator” («Тайная канцелярия. Уже третью неделю некоммерческие организации не могут найти своих контролеров»), *Novie Izvestia*, June 3, 2008, <http://www.newizv.ru/print/91165> (accessed December 2, 2008). The lawyers' group AGORA sent an appeal to the prosecutor general noting several cases of the Registration Service exceeding its authority after the transfer. See Statement from the Interregional human rights organization AGORA to Yury Chaika, prosecutor general of the Russian Federation, May 22, 2008, reproduced at http://www.openinform.ru/fs/j_photos/openinform_131.pdf (accessed September 15, 2008).

¹⁷⁴ Human Rights Watch interview with Rumia Bagaudinova and Anatoly Sofronov, Cheboksary, September 9, 2008.

a three-day time limit).¹⁷⁵ A hotline that answers legal questions for NGOs received dozens of calls asking where to submit documents. NGOs reported getting different answers from different Registration Service branches about how and where to submit documents, and even differing answers from two employees in the same office.¹⁷⁶

Many Ministry of Justice regional branches do not have websites, even though a Ministry of Justice regulation requires regional departments to maintain them.¹⁷⁷ At the time of the transfer the existing branch websites also lacked relevant information, as did Federal Registration Service regional branch websites. More than six months on, a scan of Ministry of Justice websites by Human Rights Watch in December 2008 identified only 14 working websites, barely half of which presented meaningful information for NGOs.

¹⁷⁵ Many Ministry of Justice branch offices opened in summer and autumn 2008. Only on November 11, 2008, did the Ministry of Justice publish a list of its branch offices in the regions with their addresses and contact information. Ministry of Justice, List of Branches of the Ministry of Justice for the Russian Federation by Subject of the Russian Federation, November 2008, http://www.minjust.ru/common/img/uploaded/Vo_ispolnenie_ukazov_Prezidenta_Rossiyskoy_Federatsii_ot_12.doc (accessed November 21, 2008).

¹⁷⁶ Human Rights in Russia, "Rosregistratsia in confusion," <http://hro1.org/node/2200>.

¹⁷⁷ Ministry of Justice Order 151 Approving the Regulation on the Branches of the Ministry of Justice of the Russian Federation by Subject of the Russian Federation and a List of Branches of the Ministry of Justice of the Russian Federation by Subject of the Russian Federation, June 25, 2008, <http://www.garant.ru/prime/20080804/12061730.htm> (accessed December 3, 2008).

V. Other Types of Pressure on Civil Society

The NGO law is only one of several means the government has used to harass and control certain types of NGOs and activists. Other forms of pressure used by the authorities include specious criminal or other charges against organizations or their leaders, police inspections, and interference with an organization's substantive work. The growth of violent attacks on activists in 2008 and 2009, and the lack of adequate investigation into these crimes continue to be an urgent concern.

Anti-Extremism Legislation

NGOs that work on human rights, are politically active, or that express or mobilize dissent are vulnerable to being targeted arbitrarily under the problematic 2002 Law on Countering Extremist Activity, and associated anti-extremism criminal statutes.¹⁷⁸ Human Rights Watch has documented several cases of arbitrary application of the anti-extremism laws against political and civic activists, giving credence to concerns that the law is being used to marginalize or silence legitimate political dissent.¹⁷⁹

The law's definition of extremism itemizes almost a dozen acts including "the forcible change of the foundations of the constitutional system and violation of the integrity of the Russian Federation," justifying terrorism, incitement of racial hatred, and "propaganda and public display of either Nazi attributes and symbols or the attributes and symbols similar to Nazi attributes and symbols to the extent of confusion."¹⁸⁰ Two of the law's definitions of what may be designated extremism raise concerns that they will be used to silence critics of the government. These are: any allegedly politically or ideologically motivated crime; and

¹⁷⁸ The Federal Law on Countering Extremist Activity (No. 114-FZ) passed in 2002. It was twice amended, first in July 2006 by 148-FZ and then in July 2007 by 211-FZ. The Law on Countering Extremist Activity is related to articles 280, 282, 282.1, and 282.2 of the Criminal Code, which provide criminal sanctions for extremist crimes such as public calls to extremism, incitement of hatred and debasement of human dignity, organization of an extremist group, and organizing the activity of an extremist group, respectively.

¹⁷⁹ See the case of Stanislav Dmitrievsky and the Chechen Friendship Society, reported in Human Rights Watch, *Choking on Bureaucracy*, <http://www.hrw.org/en/reports/2008/02/19/choking-bureaucracy-o>, pp. 65-66, and the case of Yuri Samodurov, former director at the Andrei Sakharov Museum and Human Rights Center, who was convicted with "incitement" in 2005 and at this writing is being tried on another charge of "incitement," reported in "Russia: Halt 'Incitement' Prosecution of Human Rights Defender," Human Rights Watch news release, May 12, 2008, <http://www.hrw.org/en/news/2008/05/12/russia-halt-incitement-prosecution-human-rights-defender>. See also "Russia: Art Conviction Undermines Free Expression," Human Rights Watch news release, March 27, 2005, <http://www.hrw.org/en/news/2005/03/27/russia-art-conviction-undermines-free-expression>.

¹⁸⁰ Federal Law on Countering Extremist Activity, No. 114-FZ of 2002, art. 1.

making a statement accusing a public official of acts of extremism in the course of fulfilling his duties.¹⁸¹

Under article 10 of the law, the activities of an organization believed to be carrying out extremist activities can be suspended. A court can dissolve an organization found to have engaged in extremist activities.¹⁸² The law also obliges an organization to distance itself within five days from its head or a member of its governing body if that person makes a public statement found to be extremist.¹⁸³ Failure to do so can result in an organization's dissolution, as was the case with the Russian-Chechen Friendship Society in Nizhni Novgorod, which was dissolved in October 2006.¹⁸⁴

The State Duma has sought to make anti-extremism legislation even more harsh. One (failed) proposal would have required internet service providers to block access to websites included in the Federal List of Extremist Materials, which is maintained by the Ministry of Justice and consists of materials ruled extremist by courts throughout Russia.¹⁸⁵ Another, put forward by the prosecutor general and given initial consideration by the State Duma in September 2008, would increase the punishment for incitement of racial hatred (article 282 of the criminal code), and make internet service providers responsible for extremist content on websites they host.¹⁸⁶ These draft amendments have yet to move forward in the Duma.

The broad discretion given to the authorities in prosecuting extremist crimes under the criminal code raises concerns that it will be used to silence critical speech, minority opinions, and other forms of expression. Notably, article 282 of the Criminal Code forbids incitement of hatred against a "social group," a nebulous term that has been construed by government-ordered expertise in several cases to mean "the police" and "officers of the Federal Security Service."¹⁸⁷ Article 282 has been used to censor art and protected expression.¹⁸⁸ Efforts to

¹⁸¹ Ibid., art. 1.

¹⁸² Ibid., arts. 9 and 10.

¹⁸³ Ibid., art. 15.

¹⁸⁴ Human Rights Watch, *Choking on Bureaucracy*, <http://www.hrw.org/en/reports/2008/02/19/choking-bureaucracy-o>, p. 66.

¹⁸⁵ "Unsuccessful attempt to toughen the law on extremism on the internet" («Неудачная попытка ужесточить закон об экстремизме в сфере Интернета»), Sova-Center, September 1, 2008, <http://xeno.sova-center.ru/89CCE27/89CD14E/BDC7E8D> (accessed November 25, 2008).

¹⁸⁶ "The prosecutor again proposes to toughen the law on extremism" («Прокуратура предлагает снова ужесточить закон об экстремизме»), Sova-Center, September 1, 2008, <http://xeno.sova-center.ru/89CCE27/89CD14E/BCDF869> (last accessed November 25, 2008).

¹⁸⁷ Most notably, the blogger Savva Terentev was convicted of inciting hatred for inflammatory comments he left on someone else's blog that were sharply critical of the local police. For more on the Terentev case, see Matthew Schaaf, "Criticism =

editor under article 282 are clearly inconsistent with the freedom of expression and speech guaranteed by Russian and international law. Article 29 of the Russian Constitution and article 10 of the European Convention on Human Rights guarantee everyone the freedom of expression and speech. The European Court of Human Rights has maintained that the “freedom of expression constitutes one of the essential foundations of [a democratic society]” and applies also to information or ideas “that offend, shock or disturb the State or any sector of the population.”¹⁸⁹

The blogger Dmitry Soloviev was charged under article 282 in March 2009 for his blog postings. Soloviev is also coordinator for the regional branch of the youth organization *Oborona* (Defense) in Kemerovo. *Oborona* branches operate in numerous regions of Russia, and seek to “protect the right of Russians to express their opinion, elect their leaders, and demand from them the fulfillment of their duties” through peaceful direct action.¹⁹⁰ *Oborona* is a member of the Other Russia opposition movement (see Chapter III), and has played a vocal role in events such as the Dissenters’ Marches.

An investigator from the prosecutor’s office in Kemerovo claims that several of Soloviev’s blog postings “contain information, directed ... toward inciting of hatred and enmity, and at the abasement of dignity” of Ministry of Internal Affairs and the FSB officers, whom, the investigator says, constitute a social group.¹⁹¹ In his postings, Soloviev levels harsh criticism against the FSB and the Ministry of Internal Affairs including, ironically, for their efforts to prosecute bloggers under the extremism statutes.¹⁹² One posting criticizes harassment of *Oborona*’s national coordinator, Oleg Kozlovskiy, by officers of the FSB and Ministry of Internal Affairs.¹⁹³

extremism,” *New Statesman* (London), July 11, 2008, <http://www.newstatesman.com/international-politics/2008/07/russia-extremism-rights> (accessed July 11, 2008).

¹⁸⁸ For example, at this writing the authorities in Moscow continue to pursue their second case, begun in May 2008, against museum director Yury Samodurov, for an avant-garde art exhibit that they allege offended the “traditional cultural values of the Russian people, and specifically, Orthodox believers,” and resulted in “psychologically traumatic effects of excessive intensity.” Tagansky Interregional Prosecutor, Indictment of Yury Samodurov, May 15, 2008, unpublished document on file with Human Rights Watch.

¹⁸⁹ *Handyside v. United Kingdom*, (5493/72), Judgment of 7 December 1976, available at www.echr.coe.int, para. 49.

¹⁹⁰ *Oborona* website, “About the movement,” <http://www.oborona.org/about> (accessed October 21, 2008).

¹⁹¹ Order on the opening of a case, Investigative Department of the Investigative Committee under the Prosecutor of the Russian Federation for Kemerovo Province, Copy of indictment (*postanovlenie o vzbuzhdenie*) on file with Human Rights Watch.

¹⁹² Soloviev in particular noted the Savva Terentev case, described in footnote 187, above.

¹⁹³ “People in grey, don’t break Oborona!” post by unknown author to “dimon77.livejournal.com” (blog), March 24, 2008 <http://dimon77.livejournal.com/271000.html>, and “Lawlessness at the FSB and conscription office,” post by unknown author to [dimon77.livejournal.com](http://dimon77.livejournal.com/254802.html), December 20, 2007, <http://dimon77.livejournal.com/254802.html>. See also Konstantin Voronov,

Dmitry Soloviev was initially required to sign a non-disclosure agreement, limiting his ability to discuss the case. While the agreement was in effect, he was able to tell Human Rights Watch that his apartment and workplace were searched on August 12, 2008, and that during the searches, the authorities confiscated his personal and work computer, mobile telephones, and computer media; he said that his university work has been paralyzed because his research and files were on the computer and media that the authorities confiscated.¹⁹⁴ According to Soloviev, the investigatory phase of the case was twice extended for additional linguistic, sociological, and technical expertise to be collected by the authorities.¹⁹⁵ Soloviev's repeated appeals to the investigator and to a judge to appoint independent expertise on the case were rejected.¹⁹⁶ At this writing the case against Soloviev is pending trial. The non-disclosure agreement that Soloviev was required to sign was rescinded and ruled unlawful by a judge on May 21, 2009.¹⁹⁷

Dodo (Nizhni Novgorod)

The environmental NGO Dodo (*Dront*) in Nizhny Novgorod was warned in June 2008 by the Nizhni Novgorod Province branch of the Ministry of Internal Affairs Department K (Administration of Special Technical Operations) that its website "could be used for the posting of information by organizations of an extremist nature," citing article 282 of the Criminal Code on the incitement of national, racial, or religious enmity. The warning ordered Dodo to remove any offending material, without stating what specifically was unlawful.¹⁹⁸

Dodo had been engaged in campaigning against a nuclear power facility and a trash incinerator in Nizhni Novgorod province, though it is unclear whether web content about these activities was the basis for the warning.¹⁹⁹ The director of the organization, Askhat

"The MVD and FSB answer a posting on Livejournal" («МВД и ФСБ ответили на записи в ЖЖ»), *Kommersant*, http://www.kommersant.ru/region/novosibirsk/page.htm?id_doc=1012249 (accessed August 28, 2008).

¹⁹⁴ Human Rights Watch telephone interview with Dmitry Soloviev, November 25, 2008. See also "The coordinator of 'Oborona' under threat of prison for publishing on Livejournal" («Координатору „Обороны“ грозит тюрьма за публикации в ЖЖ»), *Gazeta.ru*, August 14, 2008, http://www.gazeta.ru/news/lastnews/2008/08/14/n_1256958.shtml (accessed November 26, 2008).

¹⁹⁵ Human Rights Watch telephone interview with Dmitry Soloviev, November 25, 2008.

¹⁹⁶ Konstantin Voronov, "Siloviki defend against 'Oborona'" («Силовиков защищают от „Обороны“»), *Kommersant*, March 30, 2009, <http://kommersant.ru/doc.aspx?DocsID=1146508> (last accessed April 28, 2009). Siloviki are Russian politicians who hail from the military or security services.

¹⁹⁷ "Judge rules non-disclosure agreement, required of blogger accused of insulting the FSB unlawful" («Суд признал незаконной подписку о неразглашении, взятую с обвиняемого в оскорблении ФСБ блоггера»), Open Information Agency, May 21, 2009, <http://www.openinform.ru/news/pursuit/21.05.2009/11975> (accessed June 6, 2009).

¹⁹⁸ Warning dated June 26, 2008, copy of warning on file with Human Rights Watch. Koyumov was told that the warning was a prophylactic measure. Human Rights Watch telephone conversation with Askhat Koyumov, April 28, 2009.

¹⁹⁹ Bellona, "The police and FSB continue to search the Nizhny Novgorod Ecocenter Dront," September 17, 2008, http://www.bellona.ru/articles_ru/articles_2008/dront (accessed October 27, 2008).

Koyumov, told Human Rights Watch that he was not allowed to review the materials of the Ministry of Internal Affairs' case against the organization. The NGO responded to the warning with a letter, complaining that the warning was without merit, alleging violations on the part of the Ministry of Internal Affairs, and demanding an opportunity to read the case materials.²⁰⁰ According to Koyumov, Dodo received a response from the Ministry of Internal Affairs rejecting the request to see the case materials and citing the Law on Countering Extremist Activity as the legal basis for the warning. At this writing, Dodo has been unable to have the warning withdrawn or to review the case documents.

Nearly two months after the warning, in September 2008, Dodo's office was searched by the Economic Crimes Department of the Ministry of Internal Affairs on suspicion of tax avoidance. During the search the authorities confiscated documents, maps, and computers for further review, which were eventually returned to the NGO.²⁰¹ Upon finding maps in the course of the search that it believed were secret, the Ministry of Internal Affairs called the FSB, which itself came to search the NGO. Neither search, however, identified any violations of the law.²⁰² It is unclear whether the searches were connected to the allegations of extremist materials on Dodo's website. At this writing neither the FSB nor the Ministry of Internal Affairs has taken any further action against Dodo.

Memorial St. Petersburg

In another case that demonstrates how the authorities use the anti-extremism law arbitrarily against NGOs, the work of Memorial in St. Petersburg was severely disrupted when its archives on Soviet repression and other materials were confiscated. On December 4, 2008, an investigator from the prosecutor's office, along with armed, masked law enforcement officers, stormed and searched Memorial's office for several hours, confiscating archival materials on several computer hard drives, and other items connected to Memorial and two other NGOs.²⁰³ This commando-style raid on Memorial, and recent efforts to reinvigorate patriotic education in Russia, raise concerns that scholars working on controversial

²⁰⁰ Human Rights Watch telephone interview with Askhat Koyumov, April 28, 2009.

²⁰¹ Bellona, "The police and FSB continue to search the Nizhny Novgorod EcoCenter Dront," http://www.bellona.ru/articles_ru/articles_2008/dront.

²⁰² Human Rights Watch telephone interview with Askhat Koyumov, April 28, 2009.

²⁰³ Authorization to conduct a search, Investigative Department of the Investigative Committee under the Prosecutor of the Russian Federation for St. Petersburg, December 3, 2008, reproduced at <http://memorial-nic.org/images/postanovlenie.tif> (accessed February 25, 2008); and Letter of complaint from Irina Flige, director, Memorial, and Aleksandr Margolis, director, Rescue Fund, to the Investigative Department of the Investigative Committee under the Prosecutor of the Russian Federation for St. Petersburg, December 5, 2008, <http://www.memorial-nic.org/appeal.html> (accessed February 25, 2008).

historical subjects such as political repression under Stalin will be targeted under the anti-extremism statutes.²⁰⁴

The search was conducted in connection with an extremism investigation of a local newspaper, *New Petersburg*. Irina Flige, director of Memorial in St. Petersburg, told Human Rights Watch that Memorial has “never had any connection with that newspaper,” and characterized a connection between the two as a “far-fetched pretext” for carrying out the search. Flige told Human Rights Watch that “for the last three months [Memorial’s] ... work has been [made] complicated,” and that because “they confiscated 13 hard disks, which hold information that we work with ... we can’t use any of our computers” and “we’ll be forced to restore a lot of information if the [hard] disks aren’t returned.”²⁰⁵

In the months since the raid, Memorial has actively sought the return of the confiscated materials. On December 12 Memorial submitted a complaint to Dzerzhinsky District Court, asking for the search order, search, and confiscation to be ruled illegal.²⁰⁶ On January 20, 2009, a judge ruled that the search was illegal and ordered the archives to be returned.²⁰⁷ The prosecutor immediately appealed, but on March 20 the district court confirmed its previous ruling that the prosecutor had violated the NGO’s rights during the search by not allowing its lawyer into the building, and ordered the archives and documents returned.²⁰⁸ The confiscated materials were finally returned to Memorial on May 6, after a court again ruled that the search was illegal. In a statement issued by Memorial after the return of the materials, it acknowledged that “the return of the property did not compensate for the harm” caused by the ordeal, but drew attention to the fact “in some cases, [NGOs] defend their rights in court, if they apply enough effort and determination.”²⁰⁹

²⁰⁴ For example, another scholar who has worked with Memorial in St. Petersburg believes the Kremlin may be behind the cancellation of a Russian version of a book that he wrote on life under Stalin because it wants “Russians to take pride in their Soviet past and not to be burdened with a paralysing sense of guilt about the repressions of the Stalin period.” See Orlando Figes, “Shelved - did Kremlin make my Stalin book disappear?” *Guardian* (London), March 4, 2009, <http://www.guardian.co.uk/world/2009/mar/04/orlando-figes-stalin-publisher> (accessed April 27, 2009).

²⁰⁵ Human Rights Watch telephone interview with Irina Flige, director of the Information Center Memorial in St. Petersburg, March 3, 2009.

²⁰⁶ Complaint on the legality of a search, Regional public institution scientific information center “Memorial,” December 12, 2008, http://www.memorial-nic.org/zhaloba_v_sud.html (accessed February 25, 2008).

²⁰⁷ The judge also found that in the absence of materials connected to the case against the newspaper, “the investigator confiscated everything that caught his eye.” See Dzerzhinskiy District Court, Decision on case No. 3/7-04/09, January 20, 2009, reproduced at <http://memorial-nic.org/postanov.djvu> (accessed March 1, 2009).

²⁰⁸ “The attack on ‘Memorial:’ The court again rules the search unlawful” («Атака на „Мемориал“: суд опять признал обыск незаконным»), *Polit.ru*, March 20, 2009, <http://www.polit.ru/news/2009/03/20/memorial.html> (accessed April 27, 2009).

²⁰⁹ Memorial, “The final on the ‘case of the search,’ and several lessons from the case,” May 14, 2009, reproduced at <http://hro.org/node/5463> (accessed May 14, 2009).

Inspections

Fire Inspections

European University (St. Petersburg)

The suspension of European University's work in St. Petersburg in 2008 raises concern that fire safety rules can be arbitrarily enforced against civil society organizations whose work the authorities may view with suspicion. The university was forced to suspend its activities for several months in the first half of 2008 because of fire safety violations identified in a routine inspection. An election-related project that had come under considerable scrutiny by the authorities could explain why several months before Russia's 2008 presidential election, fire safety inadequacies in the university's historic building were cause for suspension even though they had not been deemed as such in prior years.

The university, a unique blend of Russian and foreign educational models, was ordered shut down not long after a prominent Duma deputy publicly condemned the university for a grant it had received from the European Commission that funded research on electoral behavior and elections monitoring training.²¹⁰ Around the same time, it was also being inspected by several other government agencies.²¹¹ According to rector Nikolai Vakhtin, "it is clear that we have become the object of arbitrary law enforcement, for whom and why, is the question we have been asking ourselves."²¹²

The university was inspected by the regional department of government fire oversight in St. Petersburg on January 18, 2008; 52 fire safety violations were identified. Dzerzhinsky District Court ruled on February 7 to suspend the university. Nikolai Vakhtin explained in a newspaper editorial that the university had over the past several years progressively brought its old and historically-protected building up to standard with the cooperation of the

²¹⁰ The deputy is Gajimet Safaraliev, a member of the ruling United Russia party. Speaking before the Duma Committee for Education and Science about the European University's grant from the EU, Safaraliev requested that the administration and prosecutor general look into the compatibility of the grant with the university's charter. He furthermore suggested the possibility that the grant was a direct "attempt of interference by a foreign quasi-government ... into Russia's 2007-2008 electoral campaigns." See "Despite the elimination of violations, European University is still closed" («Не смотря на устранение нарушений Европейский университет все еще закрыт») *Gazeta.spb*, February 14, 2008, <http://www.gazeta.spb.ru/24389-0/> (accessed November 22, 2008). Dmitry Dubrovsky, a former professor at the European University, told Human Rights Watch that in September 2007 a Duma delegation inspected documents on all of the grants the university had received. Human Rights Watch interview with Dmitry Dubrovsky, St. Petersburg, April 11, 2008.

²¹¹ According to a press release, the university was inspected by "the State Fire Inspectorate, Central Region Division (18 January), the Federal Registration Committee of the Russian Federation Ministry of Justice (from 21 January) and the Committee on Science and Higher Education of Saint Petersburg (11 February)," but denied that the inspections were politically motivated. European University at Saint Petersburg untitled press release, February 11, 2008, http://www.eu.spb.ru/index.php?option=com_content&task=view&id=682&Itemid=121 (accessed November 26, 2008).

²¹² Nikolai Vakhtin, "European University: Fire Measures" («Европейский университет: Пожарные меры»), *Vedomosti*, February 29, 2008, <http://www.vedomosti.ru/newspaper/article.shtml?2008/02/29/142610> (accessed March 13, 2008).

authorities, but “suddenly, this year [they took] ... the overly severe measure, of suspending [our] work.”²¹³ Following the February 7 order, the university quickly corrected 20 violations, and appealed to the court for reconsideration. On February 18 the court upheld its earlier decision to suspend the university’s activity.²¹⁴

Meanwhile, European University students and faculty waged an intense public relations campaign to save their school, through blog postings and newspaper articles and by collecting signatures. Letters of support from academics from around the world also poured in, pleading that the university be allowed to remain open while addressing the violations.²¹⁵ While the university’s administration generally refrained from speculating on why “one of the foremost graduate schools in the humanities and social sciences in Russia” had been suspended, many academics, students, and journalists found it “hard to believe that the teaching program of an academic institution must be suspended in mid-term, or indeed at any point in the year, due to the oddly sudden discovery of the institution’s inability to bring its historic and city-owned building up to contemporary fire codes.”²¹⁶

On March 21, 2008, two weeks after the presidential election, Dzerzhinsky District Court finally accepting the university’s argument that it had corrected many of the violations and would work quickly to fix the others, overturned its previous ruling, and allowed the university to resume operations.²¹⁷

Vakhtin believed that “someone wanted to create maximum troubles for European University.”²¹⁸ There has been no satisfactory official explanation as to why the fire department sought the university’s suspension only following the January 2008 inspection, or why the university was inspected by so many government bodies at around the same time.

²¹³ Ibid.

²¹⁴ Yelena Biberman, “Ousting the Ideological Enemy,” *Russia Profile*, February 28, 2008, <http://www.russiaprofile.org/page.php?pageid=Culture+%26+Living&articleid=a1204212722> (accessed November 25, 2008).

²¹⁵ For links to articles and letters of support on the European University closure, see Save the European University at St. Petersburg, <http://euspb.blogspot.com/> (accessed April 22, 2009).

²¹⁶ “Statement of Support for European University in St. Petersburg,” American Association for the Advancement of Slavic Studies, February 26, 2008, <http://www.fas.harvard.edu/~aaass/EUSPstatementofsupport.html> (accessed April 24, 2009).

²¹⁷ European University at Saint Petersburg untitled press release, March 21, 2008, http://www.eu.spb.ru/index.php?option=com_content&task=view&id=682&Itemid=121 (accessed June 2, 2009).

²¹⁸ Vakhtin, “European University: Fire Measures,” *Vedomosti*.

Golos Samara and Golos Volga

The office *Golos* Samara shares with another regional affiliate, *Golos* Volga, was closed for fire safety violations in May 2007. Both organizations had been investigated at around the same time by the economic crimes police and the Ministry of Justice NGO Department, pressure that the organizations' director Ludmila Kuzmina ties to a crackdown on activists in Russia in May 2007 surrounding the EU-Russia Summit, held in Samara.²¹⁹

On May 11, 2007, the second floor of the building, including the *Golos* office and the offices of other NGOs, was closed by the police after they conducted a search and confiscated computers on software piracy allegations (see below). The first floor of the building was closed and sealed on May 15 without explanation. Kuzmina told Human Rights Watch that the cause of the closure was explained only on May 21, when a court ordered the building closed for 90 days by appeal of the fire safety inspector. Kuzmina said that during the time the building was off-limits heating pipes burst and "water gushed for three days, because no one saw it," ruining many of the organizations' documents.²²⁰

The organizations were finally allowed back into the office after the 90-day court-ordered closure lapsed, even though no modifications were made nor efforts taken by the building's owner to address the alleged fire safety violations. Later, because many of the NGO's documents were destroyed and the organizations' computers were confiscated, *Golos* had difficulty meeting the demands of the Ministry of Justice inspectors, who began an inspection not long after the office reopened.²²¹ For *Golos* Samara's successful legal fight against the ensuing dissolution suit, see Chapter IV, section "NGO Dissolution and Suspension."

Harassment through multiple investigations

Golos Siberia and the Institute of Social Technology (Novosibirsk)

In the weeks prior to and following the 2008 presidential election, *Golos* Siberia and the Institute of Social Technology, a sister organization that supports women in running for elected office, were inundated at their Novosibirsk office with requests for documents and explanations of their work from various government agencies. The requests appeared aimed at burdening the organizations at their busiest time of work. Galina Ivanova, director of both

²¹⁹ Human Rights Watch interview with Ludmila Kuzmina, director of Golos Samara, Samara, April 21, 2008. See also Human Rights Watch, *Choking on Bureaucracy*, <http://www.hrw.org/en/reports/2008/02/19/choking-bureaucracy-o>, p. 13.

²²⁰ Human Rights Watch interview with Ludmila Kuzmina, April 21, and Human Rights Watch telephone interview with Kuzmina, November 27, 2008.

²²¹ *Ibid.*

organizations, told Human Rights Watch that “of course it distracted” her when they asked her “to prepare a package of documents confirming the appropriate use of funds within five days, without giving [her] a list of the documents they want.”²²²

Ivanova began keeping a log of government demands for documents when, just before the March 2008 presidential election, both *Golos* Siberia and the Institute of Social Technology attracted the intense scrutiny of numerous government departments: The requests came from the Federal Tax Service for Lenininsky District, the Federal Tax Service for Kirovsky District, the Novosibirsk province Registration Service, the Novosibirsk province prosecutor, the Novosibirsk province Elections Commission, and Kirovsky District Court. Ivanova said,

If you are talking about elections monitoring ... of course they show us intense interest, special interest... The main goal of the authorities is to exert influence, because when a person is anxious, he won't take part as actively. The goal is to decrease activity specifically in the area of elections monitoring.²²³

According to Ivanova's log, in the two weeks prior to the March 2 elections she received 15 letters or phone calls demanding information and documents, or that Ivanova appear in person at various government offices. She complied with each request to the best of her ability. In the three weeks following the elections, Ivanova received 10 more similar communications.²²⁴ Harassment of both organizations ceased after the election.

Unity (Samara)

Human Rights Watch spoke in November 2008 to Svetlana Chernova, director of the NGO Unity (*Yedinstvo*), which provides medical and psychological consultations to HIV-positive women in Samara. Chernova recounted that in the previous year the NGO had been inspected by the Ministry of Justice, the organization's founders and Chernova had been questioned by the Ministry of Internal Affairs computer crimes unit, and its bank account had been inexplicably frozen twice, first in the run-up to the December 2007 State Duma elections and again before the March 2008 presidential election.²²⁵

²²² Human Rights Watch interview with Galina Ivanova, director of *Golos* Siberia and the Institute of Social Technology, Novosibirsk, July 29, 2008.

²²³ Human Rights Watch interview with Galina Ivanova, July 29, 2008.

²²⁴ Copy of log on file with Human Rights Watch.

²²⁵ According to Chernova, the computer crimes unit implicated Unity in a software piracy investigation because one of its activists was present when a different NGO (*Golos*) was searched for pirated software. Chernova's private law firm was also searched, and its computers were confiscated, coincidentally at around the same time, on software piracy claims in a separate case. Human Rights Watch interview with Svetlana Chernova, director of *Edinstvo*, April 21, 2008.

Chernova described in detail how Unity was inspected by the Ministry of Internal Affairs Tax Crimes Unit in September 2008 because of “information” received by the tax authorities that indicated inappropriate use of funds, a claim that Chernova considers unfounded.²²⁶ According to Chernova, on September 3 one of the organization’s founders was visited by the police and asked about the NGO’s work; the police gave the founder a summons to appear for further questioning. Chernova followed up with the police, and was also asked to appear for questioning. The day after the September 3 police visit the Tax Crimes Unit demanded the organization’s primary and cash accounts from 2005 on, and all versions of the organization’s charter—all documents that had been among those inspected by the Ministry of Justice in spring 2008. That inspection revealed only minor violations that were unconnected to the alleged inappropriate use of funds and were quickly addressed, and concluded that Unity was operating within its charter.²²⁷

Chernova told Human Rights Watch that she suspects the most recent inspection was politically motivated, and was connected either to the organization’s work with HIV/AIDS positive people in Samara, or to a recent incident in which another founder of the organization had been detained by the authorities while protesting a controversial construction project in Samara.²²⁸ In an interview Chernova gave to a journalist, she suggested a possible connection between the authorities’ interest in Unity and the threats of criminal prosecution made against another NGO that was to begin a harm-reduction project for HIV/AIDS positive people in Kaliningrad province.²²⁹

Software Piracy Investigations

NGOs are vulnerable to arbitrary enforcement of software piracy laws because of their limited resources to purchase equipment and to defend themselves when facing charges of copyright violation. It is widely acknowledged that many private, governmental, and nongovernmental organizations use pirated software in Russia. Indeed, statistics show that 73 percent of newly installed software in Russia is pirated.²³⁰

²²⁶ Human Rights Watch telephone interview with Svetlana Chernova, November 27, 2008.

²²⁷ Human Rights Watch interview with Svetlana Chernova, director of Unity, Samara, April 21, and Human Rights Watch telephone interview with Chernova, November 27, 2008.

²²⁸ Human Rights Watch telephone interview with Svetlana Chernova, November 27, 2008.

²²⁹ “In Samara, an organization that consults HIV-positive women, underwent an inspection” («В Самаре организация, консультирующая ВИЧ-позитивных женщин, подверглась проверке»), Open Information Agency, September 4, 2008, <http://www.openinform.ru/news/pursuit/04.09.2008/9735> (last accessed April 24, 2009).

²³⁰ According to one report, 73 percent of software installed on personal computers in 2007 was unlicensed. “Russia is Joining the Leaders with Decreasing Rates of Computer Piracy,” Business Software Alliance news release, May 15, 2008, http://global.bsa.org/idcglobalstudy2007/pr/pr_russia.pdf (accessed November 27, 2008).

In recent years the authorities have selectively cracked down on software piracy violations, in some cases appearing to target independent media and civil society organizations. In 2007, around the time of the EU-Russia Summit in Samara and several planned Dissenters' Marches, numerous organizations were targeted in Samara, Tula, Volgograd, Syktyvkar, and Nizhni Novgorod. A November 2007 *Washington Post* article noted that "most of those accused of using unlicensed software appear to have some connection, sometimes quite tentative, to the opposition coalition called Other Russia."²³¹

In Samara, an extortion racket was uncovered in July 2008 under which computer experts worked apparently in concert with the local authorities to blackmail NGOs and other organizations regarding software copyright violations. *Golos Samara*, the local affiliate of the newspaper *Novaya Gazeta*, and numerous other organizations were caught up in the scheme. According to AGORA, an organization that provides legal assistance to NGOs, under the scheme the police in Samara would inspect an organization's computers and experts would identify signs of pirated software. The local software copyright holders, who also sometimes provided the experts to the police, would propose to either file charges or accept a fee in exchange for not filing charges.²³² The procurator's office has launched a criminal investigation for organized fraud into one such expert/rights holder who apparently demanded 400,000 rubles (\$15,000) to drop charges against an alleged copyright violator; according to the FSB, he is "but one of the links in the criminal chain."²³³ Employees of the Economic Crimes Department for the Leninsky district of Samara are also implicated in the case.²³⁴

The conduct of the Economic Crimes Department in Samara was ruled unlawful and baseless in the software piracy case it pursued against Ludmila Kuzmina of *Golos Samara*; additionally, the Samara province prosecutor was forced to apologize for its conduct in the case. Ludmila Kuzmina filed suit seeking compensation for violation of privacy and

²³¹ Peter Finn, "Russia Casts A Selective Net in Piracy Crackdown," *Washington Post*, November 14, 2007, http://www.washingtonpost.com/wp-dyn/content/article/2007/11/13/AR2007111302070_pf.html (accessed November 27, 2008).

²³² The local software copyright holders are licensed by the software producers. "A corrupt extortion racket uncovered among entrepreneurs with illegal software" («Обнародована коррупционная схема вымогательств с предпринимателей за контрафактный софт»), Regnum, July 8, 2008, <http://www.regnum.ru/news/1025046.html> (accessed November 28, 2008).

²³³ Maksim Kalach, "Representative of '1S' exchanged software for bribes" («Представитель „1С“ менял софт на взятки»), *Kommersant*, July 3, 2008, <http://www.kommersant.ru/region/samara/page.htm?year=2008&issue=113&id=266243§ion=7266> (accessed May 15, 2009).

²³⁴ "The case of a former representative of 1S will go to court by the end of the year" («Дело бывшего представителя 1С в Самарской области будет передано в суд до конца года»), Regnum, November 19, 2008, <http://www.regnum.ru/news/fd-volga/1086253.html> (accessed May 15, 2009).

emotional damage arising from the extraordinarily invasive tactics used in the course of the investigation (for example, during the software piracy investigation in 2007 they subjected her to obligatory psychiatric and drug examinations). In June 2008 Kuzmina won punitive damages of 20,000 rubles (\$750). The day after her victory, she told Human Rights Watch, “The government ... should take material responsibility for the quality of the decisions of its employees, and the quality of those employees.” For other NGOs and activists who have been harassed and persecuted by the authorities, it is an encouraging sign that the court agreed.

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Appendix

Proposals on Changes to the Russian Federal Laws on Regulating NGOs

The following proposals are provided in an effort to cooperate with efforts to improve the federal law regulating nongovernmental organizations (NGOs) and to ensure the full enjoyment of the right to freedom of association. Russian law regulating and providing for the right to freedom of association is comprised of universally recognized principles and norms of international law, international treaties to which the Russian Federation is a party, the Constitution of the Russian Federation, federal laws of the Russian Federation, as well as regulations adopted by the Russian government and its agencies.

We would like to draw your attention to the Fundamental Principles on the Status of Non-governmental Organisations in Europe (the Fundamental Principles), which are consistent with the requirements of international law, and which elaborate on the rights and responsibilities of NGOs. The Fundamental Principles were developed at several multilateral meetings held by the Council of Europe, and represent a collection of the Council of Europe's best practices. The Fundamental Principles should serve as guidelines for reforming both state law and regulations. We would also like to turn your attention to the Council of Europe's bodies that provide assistance in bringing national legislation into line with the European Convention on Human Rights (ECHR) by request of member states, and in particular, the European Commission for Democracy through Law (known as the Venice Commission), which provides expertise in areas of constitutional rights.

The following proposals and comments are based on these fundamental standards and principles.

Universally recognized principles and norms

In our opinion, the current Russian administrative regulations are contradictory, cumbersome, and inconsistent with international principles and norms. Therefore, we propose codifying legal norms which regulate the activities of NGOs and public associations operating without registration. The right to freedom of association; state guarantees of this right; the status of newly created organizations; and the procedure of their creation, activity, reorganization, and liquidation should all be regulated by universally recognized principles and norms of the international law, the international treaties to which the Russian Federation is a party -- including the International Convention on Civil and Political Rights -- the Civil Code of the Russian Federation, and codified legislation.

The European Convention on Human Rights allows a state's interference²³⁵ in an organization's right to freedom of association only if:

- it is provided for by law;
- it is necessary for a democratic society;
- in the interests of national security or public safety;
- for the prevention of disorder or crime;
- or for the protection of health or morals, or the protection of the rights or freedoms of others.

Therefore, the NGO law and its interpretation and implementation should be based on the following principles:

Principle of lawfulness: The actions and decisions of government officials must be lawful, well-grounded, and made in strict accordance with international norms and federal legislation of the Russian Federation. A violation of the law can result in a declaration, in accordance with the procedures established by the law, that the authorities' action (or inaction) was unlawful and groundless. In such a case, authorized officials should be brought to justice according to the procedures established by the law, and for victims of unlawful actions, a procedure for restoring their rights should be provided for.

Principle of non-interference: Government officials should not interfere in the activity of NGOs, except in cases directly provided for by the law.

Presumption of good faith: An organization is considered to be functioning in good faith until proven otherwise by the appropriate decision of the authorized official. The goal of government officials is cooperation with NGOs in their work, cooperation in realizing the right to freedom of association, assisting organizations in their activities, eliminating shortcomings in their operation, and preventing the infringement of the law.

Principle that government actions be transparent, easy to understand, and predictable: The actions and decisions of government officials and agencies with regard to NGOs should be clearly stipulated by the law, well-grounded, and easy to understand. For the benefit of transparency, citizens should have easy access to information about plans and procedures, as well as reports by the government bodies.

²³⁵ By "interference," we mean any actions and decisions of governmental bodies and authorized officials that limit the right to freedom of association, such as the decision to refuse registration of NGOs (hereinafter we also include public associations in this term), decisions to inspect such organizations, bringing NGOs to justice, decisions to prohibit the activity of organizations, their liquidation, etc.

Creation, registration and reorganization

The Fundamental Principles state that the process for registering a legal entity should be simple to understand and carried out and formulated objectively, and that application of registration rules should not be left to the discretion of officials. The existing registration regime and rules, which can be interpreted excessively broadly and subjectively, contradict these principles; as, for example, an organization may be refused registration if its founding documents contradict the constitution or laws of the Russian Federation, or the documents are prepared in an “inappropriate manner.” In our opinion, registration must be presumptive, barring exceptional circumstances. Therefore, we propose the following:

1. Incorporate into law the internationally accepted term “nongovernmental organization” (NGO).
2. Incorporate into law and provide definitions to the following concepts: address (location) of a permanently functioning body of the NGO; address for correspondence (or postal address); location of the NGO’s property; address of activity; and establish that all correspondence to the NGO be sent to its postal address.
3. Define in the law the following concepts: “volunteer”; “territory of the activity of an NGO”; “enlightening activity”; unify in the legislation the meaning of the term “grant.”
4. Provide for the fact that an NGO may, at any time from the moment of its formation, submit documents for registration as a legal entity.
5. Make the registration procedure for NGOs equivalent to that of commercial organizations. Legally establish the registration procedure for NGOs as one of notification.
6. If the registration procedure for NGOs is one of authorization, establish a clear list of criteria to determine if the NGOs activity is in accordance with the goals of its charter;
7. Provide for an NGO and its founders to receive information about registration at any time from the date of submission of documents;
8. The basis for refusing to register an NGO as a legal entity should be in accordance with the principles provided for in the Convention for the Protection of Human Rights and Basic Freedoms and specifically: in the interest of national security; in the interest if public order; with the aim of preventing disorder and crime; to safeguard health and morals; for the protection of the rights and freedoms of others. The list of grounds for refusal should be clear, finite, and not subject to broad interpretation.
9. Allow for the registration procedure to be suspended for a specific period of time to correct deficiencies in the submitted documents without forfeiting the application fees.

10. Provide for the right of NGOs to carry out any kind of activity that does not violate the law as well as any entrepreneurial activity not prohibited by law.
11. Legally allow for the free transformation of NGOs from any organizational-legal form to any other.

Reporting

1. Create a unified system of reporting for NGOs based on the principle of “a single window” (reporting to only one agency) and “a single date” (reporting only once a year) for annual reporting of NGOs to all state bodies.
2. NGOs which make available public reports on their activities should be exempt from the requirement to periodically report to state bodies on qualitative and quantitative indicators of their activities.
3. NGOs should be required to report to state bodies only on issues of compliance with tax regulations or compliance with the conditions of various forms of activities requiring licenses (for example, the possession of a valid license for the provision of medical services).

Inspections

In accordance with the Fundamental Principles, NGO activity should be considered lawful in the absence of any evidence to the contrary; NGOs should not be subjected to the seizure of their documents without an objective basis for such preventative measures and without an appropriate court order. NGOs that are legal entities should enjoy the same capacities as are generally enjoyed by other legal entities. The same obligations and sanctions as well as administrative, civil, and criminal laws should be applied to NGOs as are ordinarily applied to all legal entities.

The current regulations contradict these requirements. Therefore, we recommend the following:

- 1) Audits should be conducted with the view that the creation and operation of NGOs is a realization of the constitutional right to the freedom of association. The procedure, bases, timeframes, authority, and responsibilities of those taking part in an audits should be established by federal law. It is unacceptable for the body responsible for conducting audits to also be responsible for adopting regulations on their conduct.
- 2) Enact a prohibition on duplicative control and repeated audits. The NGO materials and activity audited by one government body should not duplicate those audited earlier by a different government body.
- 3) Establish that it is prohibited to demand documents from an NGO that were already presented to another government body, for example, tax declarations.

- 4) Demands for documents should refer to clearly-defined and specific documents, as opposed to broad demands for documents such as all financial documents for 2006 or an accounting ledger.
- 5) The formation of audit plans should be based on open, easy to understand, and objective criteria that are defined in federal law.
- 6) Audit plans should be freely available.
- 7) Unplanned audits should be permissible only in cases when the NGO oversight agency receives complaints from individuals or organizations, or information from other government bodies, local self-government, or the media about harm to the life or health of individuals, animals, plants, the environment, government security, and in cases of natural or man-made disaster, or in cases of the threat of such harm.
- 8) NGOs should be given the opportunity to take part in the drafting of report on the results of an audit (like with tax audits), which must include an account of the objections and remarks of the NGO being audited.
- 9) Establish that in cases of substantial violation of an NGO's rights and the procedures for conducting an audit, a final decision on the results of the audit can be declared unlawful and unfounded (as with tax audits). If the time requirement for drafting a report on the results of an audit or for producing the report is violated, the audit should be declared unlawful and the NGO should not be held responsible (as is the case with administrative violations).
- 10) Institute an exceptional court procedure for suspending the activity of an NGO.
- 11) Institute an exceptional court procedure for bringing NGOs to justice and halting their activity as a legal entity.

Suspensions and suspensions of activity, rulings that organizations are nonfunctioning, and involuntary liquidation

According to the Fundamental Principles, in most cases the appropriate sanction against an NGO will be the requirement to rectify its affairs and/or the imposition of an administrative, civil, or criminal penalty on it and/or any individuals directly responsible. Penalties shall be based on the law in force and observe the principle of proportionality. The current regulations, which allow, for example, liquidation with only two violations of the law, clearly contradict these requirements. Therefore, we propose:

- 1) Any decision that restricts the activity of an NGO or results in its suspension should be made only by a court (suspension, involuntary liquidation etc.).
- 2) Institute a separate court procedure to review such cases. Currently, cases are "equal" adversarial proceedings, for example, by suit of the prosecutor. There should be a distinct procedure, under which such cases should be treated the same as other cases involving the government and individuals. Review of such cases in the

first instance should be under federal jurisdiction. It is also necessary to codify the presumption of innocence of NGOs, and to allow judges to work with NGOs in collecting information, and not restrict it to information provided by the NGO.

- 3) The grounds for involuntary liquidation or the suspension of activity should be based on the principles laid out in the European Convention on Human Rights. Forbid involuntary liquidations for “deficiencies,” for example, a violation of the required period for convening a general meeting.
- 4) Establish a procedure to restore the rights of organizations that were mistakenly or illegally removed from the register, ruled nonfunctioning, or liquidated.

Drafted and submitted by: Human Rights Watch
 Moscow Helsinki Group
 Association AGORA
 Youth Human Rights Movement
 Human Rights Resource Center